



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

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## SEANAD ÉIREANN

*Dé Céadaoin, 01 Bealtaine 2013*

*Wednesday, 01 May 2013*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator David Cullinane that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Social Protection to make a statement on the recent decision of the European Court of Justice decision in the case concerning ten Waterford Crystal workers and the legislative steps the Government is now going to take to ensure that the insolvency directive will be implemented to the ECJ's satisfaction.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

A fhiafraí den Aire Talmhaíochta, Bia agus Mara an bhfuil sé i gceist aige gníomhú chun an stádas saor ón ngalar *Ostreid herpesvirus*, i gCuan Baile na Cille i dtuaisceart Chonamara, a chaomhnú.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for the Environment, Community and Local Government to outline the steps being taken by his Department and Local Authorities to ensure compliance by developers and liquidators of development companies to comply with Part V of the Planning and Development Act 2000 and whether planning contributions are being recovered from liquidators.

I have also received notice from Senator Lorraine Higgins of the following matter:

To ask the Minister for Education and Skills, in view of the over-capacity and ongoing demand for school places, if he will outline the current status of the application for new accommodation, including the timeframe for delivery of a new educational campus, by Presentation College, Athenry, County Galway.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

### **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 2, address to Seanad Éireann by Ms Nessa Childers, MEP, to be taken at 2 p.m. and to conclude no later than 4 p.m. in accordance with the arrangements set out in the motion passed by the House on 25 April 2013; and No. 35(10), Private Members' business, to be taken at 4 p.m. and to conclude no later than 6 p.m.

The Animal Health and Welfare Bill 2012 - Report Stage, which was due to be taken today after the Order of Business, has been deferred to a later date, as the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, is unavoidably obliged to be elsewhere. However, he has agreed to come to the House in the near future to deal with the Bill, and he has also promised debates on other matters of concern to Members in recent weeks, such as the fodder crisis, the CAP, fishery reforms and meat contamination.

**Senator Darragh O'Brien:** The Animal Health and Welfare Bill was scheduled for today. Will the House stand adjourned during that time?

**Senator Maurice Cummins:** Yes. We will adjourn until 2 p.m. after the Order of Business.

**Senator Darragh O'Brien:** I understand the Minister is involved in other matters, and we hold the Presidency of the European Union, but it is disappointing that such short notice has been given for a change such as this. I would not like to see it as a precedent. In fairness to the Minister, he has a good attendance record in the Seanad. Senator Terry Leyden and others from all parties raised the ongoing fodder crisis yesterday. It is important that the Minister does his level best to come before the House as soon as possible. I suggest this should happen early next week. I do not run his diary but it is disappointing that such short notice was given. I respect the Minister and take him at his word.

It is not acceptable that there is still no Minister of State with responsibility for agriculture. It is a issue in terms of how business in this House and the Dáil operates. Is there any update from the Taoiseach on the replacement of the late Shane McEntee? If a new Minister of State had been in place, this situation would not have arisen. It shows very clearly that the Department is not operating at full capacity because there is a vacancy. Unfortunately we will oppose the Order of Business today on the basis of the very late change, because we cannot accept it.

**Senator Mary M. White:** Hear, hear.

**Senator Darragh O'Brien:** I take the Leader and the Minister at their word but it is not acceptable and we must lay down a marker.

I ask the Cathaoirleach to indulge me because of the late change to the Order of Business. I have raised the issue of adult mental health services in this country numerous times and have given specific examples in north Dublin. It was recently agreed to seek a debate on the matter. Does the Leader have any update on the scheduling of that debate? It is a serious matter. Resources are not being provided in the sector. I would welcome an opportunity to put forward specific cases to the Minister.

On the protection of life during pregnancy Bill published yesterday evening, as Senator Ned O'Sullivan said yesterday, we all want a respectful and dignified debate that respects all views. The Bill will go to the Joint Committee on Health and Children. I do not agree with the calls yesterday for a debate here while that takes place. The joint committee is the right place for the Bill. I ask the Leader to make sure we have sufficient time to debate the Bill when it comes

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back from the joint committee. I do not think it would be appropriate for us to debate it here while a debate is happening in the health committee. However, I ask the Leader to give sufficient time for everyone who wishes to speak on that - and I am sure most people will - when the appropriate time comes.

The Leader kindly gave an answer last week on the online betting tax Bill. Both of us are interested in ensuring it comes into the House quickly. There is a new Bill being prepared. Successive Governments, including this one and the last, have sat on their hands regarding taxing online betting at source. Our independent bookmakers are struggling and going out of business on a weekly basis because of the unlevel playing pitch for multinational online betting companies. Could the Leader impress on the Minister the urgency of that Bill coming to the House?

Could the Leader, in the next couple of weeks, arrange a debate on workers' rights? I ask that in the context of an Adjournment motion I put down yesterday evening on home help workers when the Minister's representative confirmed to me that more than 5,000 home help workers who worked between 2000 and 2008 are entitled to gratuity payments of four and a half weeks per year of service, an average payment of approximately €12,000. It has been confirmed to me that they are owed it and that the Government is in breach of two Labour Court recommendations but has no intention of paying this money. Deputy McGinley kindly said he would bring those views directly to the Minister but it would be an opportunity to debate workers' rights and how the State is treating them. I ask the Leader to schedule that in the coming weeks.

**Senator Ivana Bacik:** I also welcome last night's publication of the heads of the protection of life during pregnancy Bill. I am really glad this Government is finally, 21 years after the "X" case, facing up to the responsibility we all have as legislators to introduce legislation which will provide for clarity in our law for pregnant women, their doctors and families as to when doctors may intervene to save women's lives by terminating pregnancies in the very rare cases when that arises. I entirely agree with Senator Darragh O'Brien that we should have ample time to debate it in this House when it comes before us on Second, Committee and Report Stages. I know the Leader will facilitate that request.

Senator Darragh O'Brien is correct that the health committee is the appropriate place to have the debate on the heads of the Bill. I understand the health committee is meeting tomorrow morning at 9.30 a.m. to commence that debate. We will see a very full debate. I entirely agree that it should be respectful and courteous but we also need to see this legislation go through the normal stages in the Dáil and Seanad and be brought into law without any further unnecessary delays. So while we need a full debate, I very much hope we will see it come into law before the summer recess. That is very important for the women of Ireland and I am really glad we are finally legislating on this important issue.

I welcome yesterday's announcement, while the Order of Business was in session - and other colleagues mentioned it - by Glanbia of the creation of 1,600 jobs in the south east. That is a really important announcement. This morning we see again an announcement of the creation of 100 high-level jobs in Squarespace which will set up headquarters in Dublin. This is a company in the ICT sector where we have seen 11,000 additional jobs in the last two years. The Government has rightly targeted this sector for growth and we are seeing real momentum here in job creation, so that is really important.

My final matter is a little further away from here, but again of concern. Colleagues will have seen recent reports about the hunger strike in the detention camp in Guantanamo Bay. It

is very welcome to see President Obama renewing calls for the closure of Guantanamo Bay. Many of us were very disappointed that the centre was not closed during President Obama's first term of office. It is a blatant breach of the rights to due process of suspects - and indeed they are no more than suspects - held there in detention. Many of them have been held for many years and are protesting at their conditions and continued detention. We should raise concerns about it in this House because it is a matter of great international concern.

**Senator David Norris:** I give a guarded welcome to this Bill dealing with abortion because it is very little, very late and does not address significant issues such as rape, incest and fatal foetal abnormality. If I were a woman I would not be reassured by being told the legislators are apparently not concerned with the health of a woman. They should be. It is not enough simply to state that there should be a respectful and courteous debate here, and then for people to go on and impugn other professional people. I have never said that the leader of Fianna Fáil did that, never, but other Members of this House have. I have heard them speaking about "bogus medicine", accusing a distinguished psychiatrist of a corruption of medicine. I do not consider that respectful.

I do not consider it respectful when some young woman is incited to go into a politician's clinic, lie about her position, lead people into stating what their views are, record it on a telephone and leak it to a newspaper. Then they complain about duplicity. That woman was a liar, very dishonest, and I would like to know her name. She was broadcasting everybody else's name but wanted her privacy. That is not appropriate behaviour from these people who call themselves "pro-life". Let us have a really open, honest, truthful debate with courtesy but it is not enough to say we are being courteous and then be completely discourteous, dishonest and libellous about people.

I am glad the Minister for Health, Deputy Reilly, said this would have to be revisited. So it should be. I agree with what those Labour Party Deputies said. They were perfectly right, as anybody who has a feeling for the humanity of women would want to agree with.

I am delighted that the pensioners of Waterford Crystal got their pensions. This is what they were entitled to and I am glad the European Court of Justice ruled on this but sauce for the goose is sauce for the gander. We are facing a massive pension problem in this country because our pensions were raided. Some €17.5 billion was taken out of them at the behest of the ECB and the troika. If our pension system collapses as a result of that, because we have nothing left in the kitty to pay the pensions, I assume the European Court of Justice will say it is over to the European authority to pay our pensions, and so it should because what is true in the microcosm should also be true in the macrocosm.

I am sure all Members have received the Illicit Tobacco Trade Review. The people who produce it are very coy indeed. They are "JTI" but they never spell out what that stands for. People should know that JTI is Japan Tobacco International, an Asian branch of one of the largest American tobacco, cancer-inducing companies. They have all this flummery here-----

**An Cathaoirleach:** Do you have a question for the Leader?

**Senator David Norris:** Could we discuss this and have honesty - not necessarily so much courtesy - about the tobacco industry and the very devious ways it attempts to induce people to give themselves cancer?

**Senator Tony Mulcahy:** I acknowledge the Glanbia announcement yesterday. I have

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always been a great promoter of the added-value food production industry. We have the best organic product in the world and we need to support that, and that is how we will deliver indigenous jobs in this country. Would the Leader ask the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, to give us an overview as to how a project of this scale was put together with the support of his Department and Enterprise Ireland? It would be good for us to learn about this, given that in all the counties up and down the country we may well have similar opportunities, and if we knew how they were put together the Government would support those. I know there are confidential figures but I would like an overview of how the project was put together and delivered in the short space of the last two years.

**Senator Denis O'Donovan:** I compliment the Minister, Deputy Rabbitte, on his U-turn regarding the sale of Coillte, if I may use this term very carefully. I welcome that. It was very manly and fair of Deputy Rabbitte in reflecting on the road he and his Department were going down. The sale of Coillte, in the way it was being suggested, would have had huge and disastrous consequences for this country. I raise again the ongoing, serious crisis farmers are facing regarding fodder. The situation is far more acute than it was two weeks ago. Yesterday I received a number of phone calls from people in my area. I am not being parochial because it is widespread. One widow was nearly crying on the phone because she said she had limited credit with her banks, she could not get money to buy fodder and she felt the hay that is being brought in, primarily from England, was being distributed unfairly.

I have also come across another complaint where some farmers who are not affected are actually hoarding bales. There must be a greater oversight by either the IFA or Teagasc of how the fodder coming in is being distributed to ensure those who are most affected get it first, irrespective of which organisation they are affiliated to, be it the Irish Farmers Association, IFA, the Irish Creamery Milk Suppliers Association, ICMSA, or whatever co-op.

I accept the fodder crisis has been caused by the weather with an unkind spring, desperate winter and a bad year before. To articulate my deep concern about this fodder crisis, however, I propose an amendment to the Order of Business, that a debate be held in the House on the fodder crisis. I know the Minister for Agriculture, Food and the Marine is away but surely some other Minister who knows the plight of rural areas can attend the debate. I welcome this morning's announcement by the IFA president, Mr. John Bryan, that his organisation will match €500,000 to the €500,000 promised by the agrifood sector. The €1 million provided by the Department is very little in this desperate situation. There will be no grass on the lands for another four weeks. This will have knock-on devastating consequences for agriculture and the agrifood industry over the next few months.

**Senator Aideen Hayden:** I also welcome the publication of the heads of the protection of life during pregnancy Bill. As has been noted, successive Governments failed to legislate on this matter. What is before us now represents a sensible and workable solution within the Constitution as it now stands, unfortunately. Irish women who have faced a risk during pregnancy in Ireland have voted with their feet for many decades. However, there are categories of women who cannot avail of the right to travel such as women suffering from mental and physical disability or economic disadvantage. This legislation will protect their lives.

It is an unfortunate fact that women have not felt equally protected in this country. They have, for example, chosen certain hospitals where they have had a choice because they felt their lives were more protected there than they were in others. I agree with the Opposition that we should have nothing but measured and reasonable debate on this legislation. When it is en-

acted, I hope all women in this country will feel their lives are equally protected.

Will the Leader arrange a debate on the new code of conduct on mortgage arrears? The consultation process was to finish at the end of April. I believe this code should be put on a statutory basis. There were certain measures proposed for the new code that give cause for concern. The House, accordingly, should be engaged in an early debate on this issue.

It has come to my attention that while very few split mortgages have been offered to borrowers, what is on offer varies extensively. Will the Leader arrange a debate on this matter? Split mortgages and other solutions must be put into a proper formal code so that all borrowers know what is on offer to them.

**Senator David Cullinane:** Today is international workers' day and this year is the centenary of the 1913 Lock-out. On several occasions I have called for a debate on workers' rights, not just to mark the centenary but to address the many issues which affect working people in respect of their pay and pensions. Over the past several years we have seen incidents of workers being locked out of their jobs and not getting their full redundancy or pension payments. I have also called for a senior member of the Irish Congress of Trade Unions, ICTU, to attend the House to mark the important centenary of the Lock-out. At the time, I got a commitment from the acting Leader to have the Committee on Procedure and Privilege, CPP, examine this proposal. Will the Leader provide an update on this?

Later today I will be hosting an event in the audio-visual room at which the former Waterford Crystal workers who took the court case on their pensions will discuss the import of the European Court of Justice ruling. Their legal team, a pensions expert and the regional secretary of Unite will also make presentations. It is important the former Waterford Crystal workers get proper and adequate compensation for the fact the State failed in its duty to protect them.

It would be useful to have a debate on Harvest 2020. Yesterday's positive announcement of 1,500 new jobs in Glanbia is welcome for Waterford and the south east. However, those 1,500 jobs will only be created if farmers can avail of the potential of Harvest 2020 and increase milk production. All the supports farmers need to achieve this must be put in place. Given the Glanbia announcement yesterday, it would be timely for the House to have a debate on Harvest 2020 and how farmers can reach the targets it sets out.

**Senator Cáit Keane:** I commend yesterday's statement from the Minister for Justice and Equality, Deputy Shatter, that he would be filling vacancies at chief superintendent level promptly.

**Senator Darragh O'Brien:** Why does he not reopen Templemore?

**Senator Cáit Keane:** The Government has agreed with the Minister that moneys will be made available for the Garda. The Government is determined to support the Garda in its fight against crime. We have seen how the Minister and the Garda Commissioner work together. He has been criticised by gardaí and others for working too well with the Commissioner.

The Commissioner has supported the Garda Representative Association in its call for an independent authority to examine Garda pay and conditions, similar to the one which examined those of the Judiciary. The authority could be separate to or part of the judicial pay review. Ordinary rank-and-file gardaí on the streets, who put their lives and limbs at risk for us, should be included in this examination.

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**Senator Terry Leyden:** I second Senator O'Donovan's amendment to the Order of Business. He raised this matter several weeks ago and he is aware of the situation on the ground with fodder supplies. I commend John Bryan, president of the IFA, and other organisations which are putting up over €1 million to bring in 3,000 tonnes of high-quality hay from France. This is an indication that the IFA is not happy with the poor action taken by the Minister for Agriculture, Food and the Marine, Deputy Coveney, and the Department in this crisis. This is a fodder famine and action must be taken. Senator O'Donovan has outlined comprehensively the actions that need to be taken by the Minister. These are the actions we would take if we were in government. We would be hands-on, active on the ground and resolve this issue in a comprehensive way. Seemingly, the Minister, Deputy Coveney, does not seem to be that concerned about the fodder crisis in the west.

*11 o'clock*

The scheme he has brought in is only for certain dairy co-operatives, not for farmers in general who may not have that type of contact. It is a very poor response to a crisis.

**An Cathaoirleach:** Is the Senator seconding the amendment?

**Senator Terry Leyden:** Very much so. I am delighted Senator O'Donovan has moved it. I commend him on voicing the problems so well over two weeks ago when this started.

**Senator Denis Landy:** I welcome the statement made yesterday in the Dáil by the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, with regard to Coillte. He said yesterday that he thought he could also speak for his colleague, the Minister for Agriculture, Food and the Marine, Deputy Coveney, in that they were probably agreed that the mooted privatisation of Coillte looked more unlikely every day. We have had a number of debates in this House on Coillte. IMPACT commissioned Peter Bacon to do a report on the viability of the future retention of Coillte in State ownership and it proved conclusively that the proper economic thing to do was to retain Coillte, retain the 445,000 hectares of forestry under the control of Coillte, retain the 1,800 staff that are in work directly related to forestry, with €90 million in salaries on an annual basis. Yesterday's decision was a good decision and I hope it will be followed through.

I commend Senator Cullinane on his initiative in inviting staff and union representatives from Waterford Crystal to the AV room this afternoon. I come from Carrick-on-Suir and am aware of many employees of Waterford Crystal who lost their jobs and subsequently lost most of their pensions. That matter needs to be addressed by the Government as soon as possible. I look forward to the briefing this afternoon.

Yesterday was a good day for the south east, with the announcement by Glanbia of a new factory for milk production, which will create a couple of hundred jobs across the south east and improve the lot of the agricultural community across the country. This good news is much needed in the south east. The Leader may have an issue with regard to whether the new factory can be said to be in Waterford or Kilkenny, but we will get over that.

Finally, I welcome the students from Scoil Mhuire, Carrick-on-Suir, and their teachers, and I hope they enjoy their morning.

**Senator Labhrás Ó Murchú:** This morning, some Members have welcomed the new abortion legislation, but I cannot share that welcome. I do not believe it is good legislation, nor

that there is any evidence to show it is good for women. I do not believe it is good for society and it is certainly not good for the innocent baby whose life will be ended and who will not be given the opportunity to realise his or her full potential. I have always felt that human life is sacrosanct, that it is a human right and that this is a basic tenet of any civilised society. Once we breach that tenet, we enter unknown territory which will impact on other aspects of respect for life. I suppose we all hope there is still a chance to pull back and that perhaps in the health committee some sense will come forward to show that we are not really helping to solve the problems that have brought about this legislation.

I have made the point here from the very beginning of this traumatic debate that we should of course be respectful of other people's opinions. I have always endeavoured to be so. It is also right that we have the opportunity and the courage to express our own views. We should not feel in any way intimidated in expressing those views. I hope I am one of the many who will speak for those who have no voice of their own at the moment. I hope this will be kept in mind as this debate continues to develop.

**Senator Paul Coghlan:** I agree with Senator O'Brien's call for us not to have a debate in this House on the protection of life during pregnancy Bill until after the health committee has concluded its proceedings. This is in line with what Senator Ó Murchú has just said. We are all pro-life and I agree with much of what he has just said. This is a complex and sensitive issue and we need to stay calm. None of us wants to cause division. The issue is about the life of the mother and of the unborn baby. Nobody wants to kill any unborn babies. We must be conscious of the fact that abortion is prohibited in Ireland and no change is envisaged in that regard. No change in the abortion law is proposed. We are all concerned about the issue of suicide and that is why we should wait for the conclusions of the health committee. However, it is necessary that we have legal clarity for medical practitioners on where medically necessary terminations are permissible. Of course we must work to save both lives, but the life of the unborn baby is dependent on the life of the mother. I would never wish to be in a situation in which I would have to make a decision, but we must provide that legal clarity. We may not like doing so, but we must face up to the issue. We must remember that what is being proposed is within the parameters of the Constitution. There is no constitutional change proposed and there is no change in the law. Let us continue to be calm and undivided and await the committee's findings. I agree with Senator O'Brien that we should not have a debate on the matter until after the health committee's proceedings.

**Senator Trevor Ó Clochartaigh:** Arís, táim ag iarraidh mo dhíomá a léiriú maidir leis an athrú ar an chlár inniu, nach mbeidh muid ag plé an Bhille a bhaineann le leas ainmhithe. I am disappointed we will not have the Minister for Agriculture, Food and the Marine, Deputy Co-veney, in the House today to debate the Animal Health and Welfare Bill. I agree with Senator O'Brien that he is one of the better attendees in the Seanad, but it is disappointing that he will not be here today. This indicates that there are problems in the Department. There have been particular difficulties over the past number of months, but the fact that no Minister of State has been appointed since the death of Shane McEntee shows that the Government needs to step up its operations and appoint somebody as quickly as possible so that the pressure can be taken off the Minister and so that somebody can come in here to debate issues. It is not good enough that debates are postponed and that other priorities such as the Presidency of the Council of the European Union take precedence over this House. The Government needs to ensure that we discuss all the legislation that is coming through.

On that note, I call again for a debate on the Leader programme, which is in disarray cur-

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rently. There has been great uncertainty over the past year or so, particularly in Gaeltacht areas. Since the demise of Meitheal Forbartha na Gaeltachta, MFG, we have been unclear as to how much funding is still available and how much funding needs to be drawn down. A stop was put on spending under the Leader programme over the past number of months, but this was reversed, to a certain extent, just two weeks ago. However, it is still very unclear for the companies in question where they stand with regard to funding towards the end of the year and where they stand *vis-à-vis* the Minister's plans to try to have them subsumed into the county councils. There is great disquiet on the ground about that.

We need clarity as to whether the Minister for Public Expenditure and Reform, Deputy Howlin, will allow the matching funding be made available so that we can draw down the full allocation from Europe. Time is running out on this issue and it is important that the Minister for the Environment, Community and Local Government, Deputy Hogan, come to the House to debate the issue. Many of the projects that have been submitted for Leader have time constraints on them and if decisions are not made quickly and efficiently, some of them will fall by the wayside. We cannot afford to allow that happen, particularly in rural areas where we need every venture we can get to help boost the economy and keep jobs afloat. We need these to happen as quickly as possible and I call for an urgent debate on the issue.

**Senator Jimmy Harte:** Along with Senator Landy and others, I was delighted to read Deputy Rabbitte's statement about the threatened sale of Coillte's harvesting rights. Last week in Donegal I said I could not see that happening and could see no reason for it to happen. I believe there is a general consensus among all parties and Members that this should not happen. There is a social dividend in retaining the harvesting rights. It will be good news and shows that this Government can make decisions on its own without having to run back to Europe all the time, and this is one practical example. I hope it will be the norm in future that, when the troika leaves the country, we can make decisions based on-----

**Senator Darragh O'Brien:** The sale of State assets has nothing to do with the troika agreement. The Government actually put it into the second memorandum. It was not in the original one.

**An Cathaoirleach:** Senator Harte without interruption. Has the Senator a question for the Leader?

**Senator Jimmy Harte:** It is that we discuss this. Maybe the Opposition does not like when the Government-----

**An Cathaoirleach:** Has the Senator a question for the Leader?

**Senator Jimmy Harte:** It is that we discuss the sale of Coillte's harvesting rights and that the Minister come to the House to officially put it to bed. Those are the words everyone wants to hear and I call for that debate to take place. The Opposition may not see the good in it-----

**Senator Darragh O'Brien:** We welcomed it.

**Senator Terry Leyden:** The Senator cannot see the wood for the trees - that is the problem.

**Senator Jimmy Harte:** The Opposition will be disappointed.

**Senator Darragh O'Brien:** We will not be at all disappointed. We are happy they are starting to see sense on some things.

**Senator Mary M. White:** At the very successful Fianna Fáil Ard-Fheis on Friday and Saturday evening, the leader of the party, Deputy Micheál Martin said:

Fifteen years ago Fianna Fáil negotiated and secured overwhelming public endorsement of a new departure North and South. ... What we are seeing today is an alarming disengagement by the British and Irish Governments, who act as if peace can be taken for granted. The flag riots and dissident violence simply cannot be ignored. What we need now is for the Governments to step up – not walk away.

I speak specifically today on the proposed Narrow Water bridge between Carlingford and south County Down.

**An Cathaoirleach:** Has the Senator a question for the Leader?

**Senator Mary M. White:** I want the Taoiseach to engage with his colleagues in the North. The Minister for Finance and Personnel in the North, Mr. Sammy Wilson, MP, is withholding the final funding for this beautiful bridge. The EU has agreed to contribute €18 million if the project goes ahead, with €3 million more being given by the Minister, Mr. Wilson, as the North's contribution. This beautiful bridge linking North and South will be built by 2015. President McAleese's theme as President was building bridges. What could be more appropriate than building this bridge connecting the Mourne Mountains and the Cooley Mountains and developing the tourism industry North and South? I see my colleague, Senator Terry Brennan, smiling and supporting me in what I am saying.

**Senator Terry Brennan:** I would love to open it.

**Senator Mary M. White:** I recently watched Mr. Sammy Wilson on "Stormont Today". He likes to raise hackles and emotional divisions in the North continuously-----

**An Cathaoirleach:** Has the Senator a question for the Leader?

**Senator Mary M. White:** I am asking him to give the final small amount of money to build this beautiful new infrastructure, North and South.

**Senator Terry Leyden:** Invite him to the Seanad - that is what we should do.

**Senator Michael Comiskey:** I agree with my colleagues that there is a serious fodder crisis. However, I want to compliment the Minister on his work so far. He has made €1 million available and this is covering the cost of bringing in hay. I disagree with my colleague, Senator Leyden, about the south-west or south-north scenario he mentioned. Connacht Gold is importing fodder in the west and it is covered under the scheme, and I know there was hay in Carrick-on-Shannon yesterday and some hay in Sligo also.

I also want to compliment the IFA. I have spoken to IFA representatives in the past couple of days and know it has people in France since Thursday or Friday who have a large amount of hay ready to come by boat. It will be coming in this day next week, which will help to alleviate the problem. I want to compliment them on the establishment of the fund, along with the co-ops and agri-businesses. I know the Minister has talked to all of the banks and they have agreed they will make moneys available to the farming community. He has also talked to co-ops throughout the country, North and South, about making money available, and they have agreed to make it available free of interest, and also to make money available in the longer term for farmers to purchase fertiliser to make sure the grass is fertilised and starts growing. Hope-

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fully, with an improvement in the weather over the coming days, the situation will improve.

We met a delegation of farmers yesterday in Leinster House and went through a number of the issues concerning them. All in all, we are working to get this problem sorted out and make sure no animals die. The Minister has assured us there is an emergency fund and a lo-call telephone line for farmers who have a difficulty, which is operated by the Department. We want to make sure no animals die as a result of this difficulty we are having.

**Senator Marc MacSharry:** Will the Leader arrange for a statement to be made, perhaps by the Minister for Finance or whatever Minister is available in the near future, in regard to the “Prime Time” programme last night, particularly the fact that individual as opposed to institutional investors in tracker bonds have effectively been burned as a result of the liquidation of IBRC? The programme highlighted what appears to be a very sad case and one wonders how many more such cases there are, whether quite a few people were involved and what proposals the Government has to do something for these people. One wonders how we can have looked after the senior and junior bondholders worldwide when we rushed so quickly in the process of liquidation to burn an individual, as we saw last night. It is an important issue and, while I know there are other important and controversial issues to be dealt with today, I feel this is one that should not be passed over. I would appreciate it if the Minister could make a statement on the matter.

In agreeing with our leader’s opposition to today’s Order of Business, I make the point it does not serve the Leader’s efforts well. I have said many times that, in my 11 years here, Senator Cummins has been the best Leader in the context of trying to use the Seanad space in a constructive way.

**Senator Mary M. White:** Hear, hear.

**Senator Darragh O’Brien:** Hear, hear.

**Senator Marc MacSharry:** When a Minister, for whatever reason, is called away on important business in a European context or otherwise, which can of course happen, and a Minister of State is not available, we in the House are well used to having Ministers other than the line Ministers for particular debates. Despite the fodder crisis and, not least, the importance of the Animal Health and Welfare Bill itself, we are going to have a lengthy break today. In addition, if nobody can be found to discuss the matter, I do not believe it to be an efficient use of the House’s time or that of the staff of the Houses of the Oireachtas. We are here to participate in debates. The Order Paper is filled with very good suggestions, from Private Members’ Bills to non-Government motions, that could usefully be debated in this House, and, indeed, we have even had debates here without Ministers. While I do not support that, I certainly feel a Minister of State can be found. There should be a Minister of State on stand-by at short notice to hear whatever business the Leader so determines in this House.

**Senator Colm Burke:** I welcome the decision by the Government yesterday in regard to proceeding with the publication of the heads of the protection of life during pregnancy Bill. I agree with Senator O’Brien that it is important that there be a reasoned debate on this matter. I know some Senators, such as Senator Labhrás Ó Murchú, have very strong views and I very much respect those views. However, it is important to realise that in the 1983 referendum, the wording used was “guarantees in its laws to respect”. It is interesting that in both the High Court, in the X case, and in the Supreme Court, Mr. Justice Costello, Mr. Justice McCarthy

and Mr. Justice Finlay all referred to this point, and the argument was put forward that if the Constitution uses the word “laws”, there is an obligation on the Oireachtas to establish laws. In that case, the defence put forward the argument that the courts had no power to deal with the matter because there were no laws enacted. That is what the amendment to the Constitution in 1983 provided, namely, that “the State ... guarantees in its laws ... to defend and vindicate that right “. We are now moving to put in place the proper procedure. The important point is that we cannot go beyond what the Constitution provides. This is not a proposal to change the Constitution. It is to bring forward legislation which must stay within the confines of the Constitution. In January we had three very good days at the Oireachtas Joint Committee on Health and Children. I hope a similar opportunity will be given to people who have both middle-of-the-road and extreme views in order that all parties can be listened to in this debate before the legislation is finally enacted. It would not be appropriate for this House to have a debate while this process is proceeding.

I compliment Senator David Cullinane on making arrangements for the presentation today by the workers from Waterford Crystal. I also compliment the Leader. About two years ago I produced a proposal to ensure greater scrutiny of EU legislation within the House. I know that proposal has not been accepted. It is interesting, however, that workers had to go to court to establish their rights, for which I pay tribute to them. We need to make people aware of their entitlements under EU law, as well as Irish law. That is the reason a debate on the matter in this House is important.

**Senator Ned O’Sullivan:** I support the call by Senator David Cullinane for a proper commemoration of the 1913 Lock-out, a seminal event in our history. In particular, I commend the Senator’s excellent proposal that the leaders of the trade union movement and the Irish Congress of Trade Unions address the House as a fitting way to commemorate the event. I have highlighted on many occasions the responsible role played by congress in tacking the economic crisis. It is unfortunate that we have reached something of an impasse in respect of Croke Park II, but I am confident that the trade union movement will put the good of the nation first, as it always has.

I also commend the GRA for an excellent annual conference and support the call by Senator Cáit Keane for pay levels in the Garda Síochána to be considered by an independent commission in the same way as the pay levels of members of the Judiciary are considered. That would be much fairer and give relief to gardaí, many of whom are suffering from very serious personal insolvency and financial difficulties.

I commend the Minister for Arts, Heritage and Gaeltacht Affairs for agreeing to sanction investigative work on the wreck of the *Lusitania* which, as we all know, sank in 1915 with huge loss of life. Its sinking has remained a controversial issue ever since regarding the question of whether it was carrying military ordinance. In co-operation with the legal owner of the wreck, an American gentleman called Mr. Bemis, the Minister has agreed to some of the artefacts being put on display in a museum. The investigation should throw some light on a subject that has puzzled us for many years.

**Senator Terry Brennan:** I compliment my colleague, Senator Mary White, on recognising the advantage of the new bridge and what the Taoiseach should be doing. I assure her that the Taoiseach has the matter in hand and is meeting his Northern counterparts and the British Prime Minister on the very same issue, which is political. Her colleague and my friend from north County Louth, Councillor Peter Savage, will be delighted by what she has had to say this

morning.

I know carbon taxes on coal and briquettes have been introduced today. Standard Brands which is not a small company as it employs 100 people in Killcare and Castlebellingham, County Louth, mainly manufactures fire lighters and has done so for many generations. It manufactures a fire log. I think it is the log end of the business to which the carbon tax applies. It is a glorified firelighter which compliments what Standard Brands already manufactures. It is a substitute for similar imported logs from Germany and the Netherlands.

**An Cathaoirleach:** Does the Senator have a question for the Leader?

**Senator Terry Brennan:** I do. I ask him to consult the Minister, his Department and Revenue. They are really splitting hairs. It is not a log as one might-----

**An Cathaoirleach:** It might be more suitable to raise the matter on the Adjournment.

**Senator Terry Brennan:** It is not one for the Adjournment. It must be dealt with quickly as the tax has been introduced from today. I am asking for a review of the inclusion of the fire log which is not used in the same way as a briquette or a bucket of coal. It is a glorified firelighter. I, therefore, ask the Leader to ask the Minister to review the matter, as eight to ten jobs could be lost.

**Senator Feargal Quinn:** I am usually loath to speak about what is happening in other part of the world that we do not know very well. It seems, however, that there is a need for a public outcry against the number of public executions taking place in Iran. Last month alone, there were 100 executions in prisons that we know of, many of them public hangings. There were 82 public hangings or executions in one earlier 13 day period. There is a need for a worldwide outcry, as there must be a better solution to all of Iran's problems. I am sure it has major problems, but there must be some way to draw the attention of the regime in Iran to the fact that there is an outcry around the world. An effort is being made by parliamentarians to get in touch with the regime in Iran to tell it how much we abhor what is happening there. It has been reported that 1,000 people are on death row awaiting execution. This issue needs the world's attention. I, therefore, urge the Leader to get in touch with the Minister for Foreign Affairs and Trade to make the United Nations High Commissioner for Refugees aware that we need to see a change in how this regime is behaving and that we need to protect the human rights of the people of Iran.

**Senator Michael Mullins:** I strongly support the call by Senator Feargal Quinn that we ask the Minister for Foreign Affairs and Trade to take up the issue of the totally unacceptable, barbaric and appalling situation in Iran where significant numbers of people are being executed. I thought that there was a more humane environment in most parts of the world but there is a most appalling situation in Iran which must be addressed.

I ask the Leader to organise for the Minister of State with responsibility for housing and planning to come to the House to discuss the issue of social housing. It is welcome that NAMA has made available a total of 339 social housing units to date and identified up to 4,000 units, in 1,500 of which local authorities have confirmed an interest. The numbers on social housing waiting lists in all local authority areas are at crisis point. It is, therefore, necessary for us to have a full and frank debate with the Minister of State on how we can speed up the making available of the many houses lying idle throughout the country, some of them in housing estates but many others are one-off houses in rural Ireland. I would appreciate it if the Leader organ-

ised for the Minister of State to come to the House to discuss the issue.

**Senator Rónán Mullen:** I repeat my request to the Leader that we have a debate on the draft heads of the legislation on abortion produced by the Government. The other House should debate it also. The more I read the heads of this Bill the more I feel this is a really dark day. The Government is proposing something dangerous and destructive. I am very disappointed that our Taoiseach has led us to this point. His advisers and some of his Ministers have cooked up an unworthy political compromise on a life and death issue. The lines coming from the Government about this being restrictive and life-saving and necessary to implement a law that is already there are simply not true. This is about opening the door to abortion and not just by a chink. Under pressure, particularly from the Labour Party, the Taoiseach and his Government have ignored the tide of medical evidence against legislating on the grounds of suicide, not to mention the deep concerns expressed by more than 100 psychiatrists who appear to represent the overwhelming majority of their profession. It appears the hearings held by the Oireachtas Joint Committee on Health and Children last January were just a charade not because of what was said at them which decisively rejected the notion of abortion as evidence-based treatment for suicide-----

**An Cathaoirleach:** Does the Senator have a question for the Leader?

**Senator Rónán Mullen:** Yes. My question is whether we can have this debate. These hearings were completely ignored and if we have more committee meetings they will be a charade as well. It is part of the careful choreographing of this issue. People are not equal members at committees, as is well known. This is a life and death issue that should be debated in each of these Houses. The Order of Business is not the moment to go through the really noxious and sinister aspects of this Bill which are certainly there. I will not put down an amendment to the Order of Business today because my colleagues deserve an opportunity to read the heads of the Bill and to see how awful some aspects of this proposed Bill are. I will, however, propose amendments to the Order of Business next week. The Taoiseach should be accountable to the Houses on such a fundamental issue. It is important that the Minister for Health and Children would go before both Houses and that each House would have an opportunity to debate this. We must not be herded and stage-managed. That is what has been happening all along on this issue. It is really unworthy of the Government to have done it in this way. Further hearings by the Oireachtas Joint Committee on Health and Children will only add to that. I say that with great respect to the Chairman and the other members but we cannot have a proper debate if the committee hearings are used to manage the flow of information and the presentation of this Bill.

**Senator John Kelly:** Senator Brennan commented on my contribution yesterday on carbon tax. I agree with him and I know that down the road there will be serious job losses as a result of the imposition of this tax but I would be prepared to seek a debate on the adjournment on this matter with Senator Brennan next week if the Cathaoirleach would oblige us.

I welcome the news about Coillte and that our State lands will not be sold off. I am particularly pleased because I always believed there was a relationship between Coillte and the wind energy sector and maybe now the wind energy sector realises that wind energy is not the way forward and is pulling back from it.

In recent days I have heard radio announcements telling people to deal with their local property tax within the next few days as a matter of urgency, whatever that means. I have a document telling us that it must be done by 1 July but it also states that one must complete and

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submit property tax returns by 28 May. We have been given three dates, next week, 28 May and 1 July. Can the Leader clarify this? People do not know the actual deadline.

**An Cathaoirleach:** If the Senator wishes to submit a matter on the Adjournment before 3 o'clock today it could be considered for tomorrow.

**Senator Martin Conway:** I welcome the publication of the heads of the Bill early this morning. At least people need not now speak in a vacuum but with something on which to go. In order to be positive and move forward this very important issue I suggest to the Leader and to the Committee on Procedure and Privileges that they make the Seanad Chamber available again to the Oireachtas Joint Committee on Health and Children if it requires it.

**An Cathaoirleach:** That issue has been dealt with.

**Senator Martin Conway:** Perhaps it has but I am raising it anyway as a point of information.

**Senator Darragh O'Brien:** It was dealt with yesterday.

**Senator Martin Conway:** I apologise if it was dealt with yesterday.

**An Cathaoirleach:** Does the Senator have a question for the Leader?

**Senator Martin Conway:** I am coming to it. I would like the Leader to tell the Chairman of the Oireachtas Joint Committee on Health and Children that significant and serious discussion on the heads of this Bill will be necessary and that every Member should have an opportunity to listen to all information available and there should be no time restriction. Any competent professional body who wishes to make a submission to the committee should be facilitated. This meeting might run for longer than three days. This is an important issue and it needs to be dealt with urgently because there is so much public concern. We have a responsibility to try to move it on as quickly as possible to ensure people are adequately informed so that they can make appropriate decisions when necessary.

**Senator Maurice Cummins:** Senator Darragh O'Brien spoke about the inability of the Minister for Agriculture, Food and the Marine, Deputy Coveney, to attend the House. The Minister tendered his apology. I hope the Minister will come here on Thursday next and that he will discuss the fodder crisis then but I do not have confirmation of that. If we do amend the Order of Business I am willing to accept that we can discuss it today without a Minister if that will suffice. It would be better to have the Minister here next Thursday but I am willing to co-operate with the House on that matter. I will amend the Order of Business if Senators want to hold that debate now but there will be no Minister here. I am amenable to the wishes of the House. It does not often happen that Ministers cry off at short notice especially in respect of legislation but it has happened and the Minister apologises.

I take on board Senator Darragh O'Brien's comments on the protection of life during pregnancy Bill. It will go to the Oireachtas Joint Committee on Health and Children and will come back to both Houses after those hearings. I assured the House yesterday that there will be full and ample time afforded to any Member who wishes to speak on that Bill on all Stages. We will provide ample time and anybody who wishes to speak will be afforded the time to speak. The majority of Members believe that is the time when we should discuss this Bill and that we should leave the heads of the Bill to the Oireachtas Joint Committee on Health and Children.

Senator Mullen disagrees and I understand his feelings on that matter but that is what we intend doing on that Bill.

Senator O'Brien also raised the question of the Betting (Amendment) Bill and online betting. I support his sentiments and will endeavour to find out when that Bill will come to the House. I understand that the Department of Finance is framing it. There had been a link between the Departments of Agriculture, Food and the Marine and Justice, Equality and Defence, and Finance. All three were involved in it. I hope that will be in the House in the autumn session if not before.

Senator Bacik welcomed the 1,600 jobs for Glanbia, as did Senator Landy and other Members. It is a significant boost to rural communities, especially in the south east. They also welcomed the 100 jobs announced in the ICT sector today in Dublin. All of these announcements are to be welcomed. They show that the action plan for jobs is working and bearing fruit.

Senator Norris and several other Members have commented on the protection of life during pregnancy Bill. We should reserve our comments until we come to discuss the Bill. I do not intend to comment on what Members have said about it.

Senator Mulcahy also welcomed the Glanbia jobs announcement and asked that the Minister, Deputy Bruton, be invited to the House to give an overview of the project. Senator O'Donovan raised the fodder crisis. Yesterday, I announced that a helpline had been set up by the Department of Agriculture, Food and the Marine, the number of which is 1850 211 990. As stated by the Department no animal should die and it will pay for fodder to be brought to people in crisis. Senator Comiskey outlined the measures put in place by the co-ops, banks, IFA and all others involved. It is up to the Opposition to decide whether it wishes to have that debate today without a Minister or next Thursday with a Minister.

Senator Hayden raised the issue of split mortgages and insolvency procedures. I am sure we will have a further debate on that issue. While the Minister of State, Deputy O'Sullivan, will be in the House soon to deal with housing legislation, I am not sure if the Senator's concerns can be addressed in that context. I will try to arrange a debate on the matter.

Senators Cullinane and O'Sullivan asked that particular persons be invited to address this House as a commemoration of the 1913 Lock-out. That matter is on the agenda of the next meeting of the Committee on Procedure and Privileges. The Senators also called for a further debate on Harvest 2020.

Senator Keane spoke about the promotions in particular ranks in An Garda Síochána announced yesterday by the Minister, Deputy Shatter, and called, like Senator O'Sullivan, for Garda pay to be addressed by an independent commission.

Senator Leyden seconded the amendment in relation to the debate on the fodder crisis, which issue he also raised yesterday. Senator Landy and several others referred to the announcement by the Minister, Deputy Rabbitte, that the sale of harvesting rights will probably not proceed at this point in time. Senator Landy also welcomed the briefing on the Waterford Crystal workers' situation in the AV room at 2 p.m. today and the jobs announced by Glanbia.

Senators Ó Murchú, Coghlan and Mullen asked about the protection of life during pregnancy Bill 2013. We will deal with the matters raised by the Senators when the Bill comes before the House.

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Senator Ó Clochartaigh asked about the Leader programme. I do not agree with him that the Leader programme is in disarray. I understand significant funding was announced in some areas only last week. I am sure that the Minister, Deputy Hogan, would be willing to come to the House to update Senators on the matter.

Senator White raised the issue of the Good Friday Agreement. I can assure the Senator that there is no disengagement whatsoever in this regard on behalf of the Irish Government. On the Narrow Water Bridge, which was also raised in the House on many occasions by Senators D'Arcy and Brennan, I am confident that the finance to allow that project to proceed will be made available.

**Senator Mary M. White:** Good.

**Senator Maurice Cummins:** Senator Comiskey outlined the measures being taken by all agencies in relation to the fodder crisis. Senator MacSharry asked that the Minister for Finance come to the House to make a statement on the problems arising from the liquidation of IBRC. I am sure that the Minister, Deputy Noonan, will address that matter in early course.

Senator O'Sullivan welcomed the proposal by the Minister, Deputy Deenihan, in relation to the investigation work on the wreck of the *Lusitania*. I am sure it is welcomed by all. Senator Brennan called for an exemption for a specific type of fire log from carbon tax and for a review of the compilation of the logs. As mentioned by the Cathaoirleach, if the Senator tables the matter for discussion on the Adjournment before 3 p.m. today, that matter can be dealt with tomorrow. I believe that would be the best way of dealing with that matter.

Senator Quinn raised the issue of public executions in Iran. It is an appalling situation and a breach of human rights. I will bring the matter to the attention of the Minister for Foreign Affairs and Trade and will report back to the House with his observations.

Senator Mullins raised the issue of social housing and asked that the Minister of State, Deputy O'Sullivan, come to the House to discuss the matter. The Minister of State will be in the House later in the month to deal with housing legislation, at which time the Senator can raise the issue with her.

Senator Kelly spoke about Coillte and the property tax. I understand that properties must be registered by 28 May and payments must be made by 21 July. Should the Senator require any further information, he should contact the Revenue helpline. I am sure the Department of the Environment, Community and Local Government would also assist in the matter should the Senator require further clarification.

On the issue raised by Senator Conway, the Committee on Procedure and Privileges has agreed to make the Chamber available to the health committee on particular days should it require it.

**Senator Martin Conway:** Hear, hear.

**An Cathaoirleach:** Senator O'Donovan has proposed an amendment to the Order of Business, "That a debate on the fodder crisis be taken today". Is the amendment being pressed?

**Senator Maurice Cummins:** I would like to clarify that if the Senator wishes the debate to go ahead today without a Minister, I will agree to it. It is totally unacceptable that Senators would expect a Minister to come to the House within ten minutes.

**Senator Denis O'Donovan:** My amendment seeks that a Minister with a knowledge of rural Ireland would come to the House to debate the issue. The situation is acute. It would be remiss of me as a member of the agricultural panel to not even raise this issue. According to the people who contacted me yesterday, the helpline is a cop-out and a waste of time.

**An Cathaoirleach:** Is the amendment being pressed?

**Senator Denis O'Donovan:** Yes.

Amendment put:

| The Seanad divided: Tá, 14; Níl, 29. |                        |
|--------------------------------------|------------------------|
| Tá                                   | Níl                    |
| Byrne, Thomas.                       | Bacik, Ivana.          |
| Crown, John.                         | Brennan, Terry.        |
| Cullinane, David.                    | Burke, Colm.           |
| Leyden, Terry.                       | Clune, Deirdre.        |
| MacSharry, Marc.                     | Coghlan, Eamonn.       |
| O'Brien, Darragh.                    | Coghlan, Paul.         |
| O'Donovan, Denis.                    | Comiskey, Michael.     |
| O'Sullivan, Ned.                     | Conway, Martin.        |
| Ó Clochartaigh, Trevor.              | Cummins, Maurice.      |
| Ó Murchú, Labhrás.                   | D'Arcy, Jim.           |
| Power, Averil.                       | Gilroy, John.          |
| Quinn, Feargal.                      | Harte, Jimmy.          |
| White, Mary M.                       | Hayden, Aideen.        |
| Wilson, Diarmuid.                    | Healy Eames, Fidelma.  |
|                                      | Henry, Imelda.         |
|                                      | Higgins, Lorraine.     |
|                                      | Keane, Cáit.           |
|                                      | Kelly, John.           |
|                                      | Landy, Denis.          |
|                                      | Moloney, Marie.        |
|                                      | Moran, Mary.           |
|                                      | Mulcahy, Tony.         |
|                                      | Mullins, Michael.      |
|                                      | Noone, Catherine.      |
|                                      | O'Keeffe, Susan.       |
|                                      | O'Neill, Pat.          |
|                                      | Sheahan, Tom.          |
|                                      | van Turnhout, Jillian. |
|                                      | Whelan, John.          |

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and

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Aideen Hayden.

Amendment declared lost.

Question put: "That the Order of Business be agreed to."

| The Seanad divided: Tá, 31; Níl, 13. |                         |
|--------------------------------------|-------------------------|
| Tá                                   | Níl                     |
| Bacik, Ivana.                        | Byrne, Thomas.          |
| Brennan, Terry.                      | Cullinane, David.       |
| Burke, Colm.                         | Leyden, Terry.          |
| Clune, Deirdre.                      | MacSharry, Marc.        |
| Coghlan, Eamonn.                     | O'Brien, Darragh.       |
| Coghlan, Paul.                       | O'Donovan, Denis.       |
| Comiskey, Michael.                   | O'Sullivan, Ned.        |
| Conway, Martin.                      | Ó Clochartaigh, Trevor. |
| Crown, John.                         | Ó Murchú, Labhrás.      |
| Cummins, Maurice.                    | Power, Averil.          |
| D'Arcy, Jim.                         | Walsh, Jim.             |
| Gilroy, John.                        | White, Mary M.          |
| Harte, Jimmy.                        | Wilson, Diarmuid.       |
| Hayden, Aideen.                      |                         |
| Healy Eames, Fidelma.                |                         |
| Henry, Imelda.                       |                         |
| Higgins, Lorraine.                   |                         |
| Keane, Cáit.                         |                         |
| Kelly, John.                         |                         |
| Landy, Denis.                        |                         |
| Mac Conghail, Fiach.                 |                         |
| Moloney, Marie.                      |                         |
| Moran, Mary.                         |                         |
| Mulcahy, Tony.                       |                         |
| Mullins, Michael.                    |                         |
| Noone, Catherine.                    |                         |
| O'Keeffe, Susan.                     |                         |
| O'Neill, Pat.                        |                         |
| Quinn, Feargal.                      |                         |
| Sheahan, Tom.                        |                         |
| Whelan, John.                        |                         |

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Ned O'Sullivan and Diarmuid Wilson.

Question declared carried.

*Sitting suspended at 12.05 p.m. and resumed at 2 p.m.*

*2 o'clock*

### **Address to Seanad Éireann by Ms Nessa Childers, MEP**

**An Leas-Chathaoirleach:** I welcome Ms Nessa Childers, MEP, to the House. She has been the MEP for the East constituency since 2009. I wish her every success in her role. She has 20 minutes in which to address the Seanad.

**Ms Nessa Childers:** I am thankful for the opportunity to address the Seanad today. I will speak about EU public health policy, referring to various items of legislation we have worked on over the past four years. I will argue that we need a reformed, but not abolished, Seanad. The Seanad should have a role in scrutinising and debating EU policy as it goes through committee stages in the European Parliament and the Council of Europe.

I will first address the work of the Parliament. My first impression of being an Irish MEP was that it was not unlike living on Pluto, far away from but circling around the sun - the sun in this case being the Irish political system, where it appears many Deputies and Senators are blissfully unaware of or unconcerned about the work of the European Parliament. This is worrying, as the European Parliament now has extensive legislative, budgetary and supervisory powers. With regard to virtually all EU policy issues, it is an equal co-legislator with national governments. When I am out and about in the constituency, however, I realise people are very aware of the role of the European Parliament and want to engage with me and discuss our work.

Let me put all this in a practical light. I am a member of the Committee on the Environment, Public Health and Food Safety, ENVI, and a substitute member of the Committee on Culture and Education. With a background of more than 20 years as a mental health professional, I have naturally focused a lot on public health issues. Since 2009, I have been co-chair of the European Parliament's mental health, well-being and brain disorder interest group, which brings together MEPs, Commission officials, academics and patient groups to work together on mental health issues such as depression, suicide and alcoholism. Since early 2012, I have been co-chair of the European Parliament's group MEPs Against Cancer. This involves MEPs, patients and industry groups examining the way in which the European Union can tackle issues such as breast, lung, prostate and cervical cancers. These interest groups represent a valuable use of our time. We organise round-table discussions that are held in an unpressurised environment and with plenty of time for people to debate current issues. This helps to inform us and educate us in our decision-making.

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As the Seanad is aware, the European Parliament's legislative work is structured around the committee system, in which the emphasis is on achieving compromise and agreement. The committee system is interesting for Irish parliamentarians as it allows individual MEPs to have actual influence in shaping new legislation. For example, on the environment committee, I have helped to shape EU policy on many topics, such as Alzheimer's disease, disabilities, obesity, HIV–AIDS and food labelling. In the European Parliament, any MEP can submit legislative amendments. Once one wins support for them, they may be passed in plenary session. If the Parliament then fights for those amendments, they can become law for over 500 million EU citizens. I have had the pleasure of having my amendments to the 2012 food labelling regulation become EU law, for example.

It is important to understand, for all kinds of reasons, that MEPs exercise their mandate independently. They cannot be bound by any instructions or receive a binding mandate. This, in effect, means there can be no national party whip for MEPs as regards voting on European legislation. As MEPs do not vote in the Oireachtas, there is no whip for us in the national parliament either. The reason for an independent mandate is quite important. It is to ensure we are not bound by possible national party instructions to follow solely national interests. MEPs are elected to represent their constituents directly in the European Parliament and they vote on European legislation that affects the Union as a whole.

MEPs organise into political groups that reflect their political philosophies. I am a member of the Group of the Progressive Alliance of Socialists & Democrats and the Irish Labour Party while representing the interests of my constituents. At present, I have a voting record of 90% with my political group. Unfortunately, the positions adopted are not always consistent with those of the Irish Government, including those of both Fine Gael and Labour Party members. This is the case generally in the European Parliament. The cohesion of the groups is notable despite the absence of a whip system. The Group of the Progressive Alliance of Socialists & Democrats has voting cohesion among its members of approximately 90%. That is interesting and we should think about the implications of the absence of the whip system.

In 2012, I was a co-author of new EU legislation on the pricing system for medicines in Europe, the transparency in medicines pricing directive. That will affect Irish patients in terms of how and at what price they can access vital medicines. Hopefully, the legislation will be concluded next October. It will also affect how quickly generic medicines enter the market. Other issues I work on are the medical devices directive and clinical trials regulation. A particular interest for me at present is the revision of the tobacco products directive. I believe this legislation is critical and I am anxious that the strongest possible tobacco control is agreed. Personally, I would have it banned if possible. With non-governmental organisations and patient groups in Brussels I have campaigned and pressed for strong anti-tobacco legislation, and the European Commission finally proposed this long-awaited directive before Christmas. A total of 700,000 people die prematurely in the European Union due to tobacco-related causes, yet across Europe teenagers start smoking at a very early age. Tobacco puts a heavy burden on governments and society generally. Non-smokers also pay for the costs of smoking, primarily in the form of higher health insurance and medical costs related to second-hand smoke, leading to higher taxes and higher prices for health care products and services.

The new legislation seeks to ensure that tobacco products look and taste like tobacco. The draft directive bans all characterising flavourings, as they are termed. Examples of these include chocolate, fruit flavours and menthol. It also deals with labelling and packaging, with picture and text warnings to cover 75% of all cigarette and roll-your-own packets. Packaging

is one of the last places in which the tobacco industry can market its products. This marketing must be prevented and curtailed as much as possible. Although the directive is widely welcomed, MEPs and member states must be vigilant against the massive negative industry lobbying campaign, which will now move out of the shadows and try to delay, block and defeat this legislation. We know the industry lobbied specifically on tax and intellectual property grounds against the new EU law.

I will speak a little about my work on lobbying and transparency, particularly with regard to this directive. Lobbying is reasonable and legal. It contributes to good legislative decision making, but only when it is fully transparent. For that reason I was disappointed to learn that two Government Departments did not disclose meetings with the tobacco industry, breaking the terms of the World Health Organisation, WHO, treaty of which Ireland is a signatory. Working together with Deputy Kevin Humphreys, we discovered that officials working for the Minister for Finance, Deputy Noonan, and the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, met with the tobacco industry on a number of occasions last year without the transparency required under the world tobacco treaty ratified by Ireland in 2004. They have met, for example, with John Player and Philip Morris International, and Department of Jobs, Enterprise and Innovation officials have met with Japan Tobacco International. These meetings happened despite a warning last May from the Minister for Health, Deputy James Reilly, to his Cabinet colleagues of their obligations under the WHO treaty. We need to know more about how and when lobbying of governments has occurred.

I have worked on these issues from very early in my term in Brussels. We are working towards a transparent system. Brussels is the lobbying capital of the world, apart from Washington DC. There are possibly 22,000 lobbyists in Brussels alone. We need a culture of responsibility and legislative efforts to monitor the lobbying sector. Brussels is moving in the right direction. There is a register of lobbyists, but it is not mandatory. The two biggest Irish lobbyists, the Irish Farmers' Association, IFA, and the Irish Business and Employers' Confederation, IBEC, for example, have still not registered. Many public representatives, myself included, publicly declare when we have met with industry representatives and my diary includes all meetings with NGOs, industry representatives and community groups. My website provides great detail about my pay, expenses, staff and other aspects of my political life which the public might like to know. There must be more transparency about lobbying in Ireland. I am pleased that the register of lobbyists legislation will be published by the Minister for Public Expenditure and Reform, Deputy Howlin, very soon. It is a good start.

I will now discuss my thoughts on the Seanad with regard to EU legislation. I would like to see a strong role for a reformed Seanad in debating the scope and depth of EU policy, with Irish MEPs playing an equal part in those discussions and reflecting the passage of legislation through the institutions of the EU and the co-decision-making process. The Lisbon treaty facilitates this function of oversight and it should feature strongly in a reformed Seanad. Senators could communicate legislation of interest to councillors and work with the new regional authorities. They could offer this as a service to local elected representatives, who usually have to explain and deal with the effects of EU law being implemented in their local areas. MEPs could also attend the relevant Dáil committees where EU legislation can be discussed. MEPs from some other countries have that right. This is important, as parliamentarians need to ask Ministers what their stance is in advance of voting on new laws when they sit on the Council of the European Union. New roles and responsibilities would require a strong secretariat to make them worthwhile.

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In the current economic situation any argument for increasing the Seanad budget would be difficult to make, but one of the dangers of the economic recession and the austerity agenda is that confidence in democracy is damaged. This has been identified by the European Parliament, which strongly cautions against excessive cuts. In Ireland, the most vulnerable and the lower paid carry the bulk of the cutbacks. We need to ask why this is happening. We must also examine how we can stop democracy from being damaged. How often have we seen critical decisions forced through both Houses, without proper debate, under the excuse of emergency or time constraints? To have real impact, actions on lobbying and Seanad reform require greater changes in how we make decisions in this country. The secretive and closed budget-making system, for example, does a disservice to the country and is a disservice to politicians. Government Deputies and Senators are expected to defend a budget with only a few hours' notice of the content and the figures. Taking one for the team rather than questioning poor policy is viewed as a badge of honour and deemed worthy of reward. Opposition Deputies and Senators have no opportunity to have an input into the process. We need long-term budgeting that is agreed in open session through a committee system that allows the full involvement of elected representatives and public scrutiny. Unfortunately, transparency in decision making is getting more opaque. The whip and guillotine silence Deputies and Senators on both sides of the Houses and push through legislation without oversight. We need reform or we will continue to face unequal, unfair and often poorly thought out policies. Due to the new EU governance legislation, the Irish budget will become more transparent. It will be open to and peer reviewed by our neighbours. It is a pity some of the budgets of the former Minister for Finance, Mr. McCreevy, were not peer reviewed, or indeed many other budgets.

I will not speak any further but will just remind Senators about the living on Pluto metaphor. In many respects, Brussels is the real sun around which member states are increasingly rotating. Some of that is problematic for Ireland because of the influence of troikas which are not accountable to anybody, including the European Parliament. We must look at where we are placed in that solar system of public representation. It has always been my opinion that the Seanad should not be abolished. There are great dangers in that. However, I believe it will happen, unfortunately.

**Senator Terry Leyden:** I offer a warm welcome to Ms Nessa Childers on behalf of the Fianna Fáil side of the House. I admire her recent stand in respect of the policies of this country. She deserves great support. She is a chip off the old block. I had the honour of supporting her father's campaign for election as President of Ireland and I had the honour of launching a stamp down on the docks with her mother when I was a Minister of State. It was in honour of the *Asgard* and the great work that her grandfather and grandmother did for the country.

Ms Childers comes from a great tradition and is continuing on that vein in the European Parliament. I know from being in Brussels over the years that since her election to the European Parliament in 2009 - she is in her fourth year - she has worked with the advantage of having such a distinctive name and reputation. These are a help in meeting other parliamentarians from throughout the world who would know of her background. She has shown her independent spirit on particular issues and I am most impressed by what she has outlined today.

One specific area in this regard is the question of the tobacco industry. The lobbying that is going on is sinister. She remarked that two senior Ministers have been lobbied and their officials have met representatives of Philip Morris, John Player and Japan Tobacco. I am interested in the background to the booklet, *The illicit tobacco trade review 2012*, issued by a certain organisation. I am unsure whether those involved are lobbyists; they do not state who they are.

The organisation appears to be called JTI. It has a regulatory affairs adviser and it is a limited liability company registered in Dublin, Ireland with offices at Arthur Cox buildings, Earlsfort Terrace, Dublin 2. The director is John Freda. I am unsure whether they are lobbyists or a front for the tobacco industry. In recent weeks the Minister for Health, Deputy Reilly, who has expressed his opposition to smoking, has stated that he wishes to bring about a situation whereby there would be at least a €1 charge on each cigarette. This matter was highlighted by Senators Mary White and David Norris and others. From my recollection the relevant Bill was to allow for under-cost selling of tobacco and cigarettes. It is supposed to be acting on a directive of the European Union. We have practically no scrutiny of the situation here.

I was a member of the Joint Committee on European Scrutiny. We laid out various recommendations in a report. The committee recommended as an initial measure that the Dáil and Seanad should each allocate at least one sitting day per month to EU matters. Among the matters to be considered in plenary session were the reports of the Joint Committee on European Scrutiny on important draft EU laws, the ongoing work of the Joint Committee on European Affairs and the implementation of the Lisbon treaty, which is now in place. The Lisbon treaty clearly indicated the powers of both Parliaments. I do not believe there has been any referral under the yellow card system from either House, the Dáil or the Seanad, to Europe on legislation or directives. I have examined the matter. The Minister of State with responsibility for European affairs, Deputy Lucinda Creighton, was a member of that committee and was in favour of this House scrutinising these matters, as was the Leader of the House, Deputy Maurice Cummins. They put a good deal of work into this.

Ms Childers has certain responsibilities as an MEP to scrutinise those directives. I wish her well for re-election. There was a directive in respect of fishing in eel fisheries which has been banned for 99 years.

It is most unsatisfactory that we voted for and supported the admission of Croatia to the European Union only to find that as a result we are possibly going down from 12 to 11 seats in the next European Parliament. Not knowing the constituencies at this stage, a little over one year from the next election, is grossly unfair to Ms Childers as a member of the European Parliament. The more countries that are admitted to the European Union, the greater the problem. We will end up with six seats for Ireland if we do not start to increase the number of seats in the Parliament. That is the inevitable solution. No country should lose as a result of bringing in another country. If that is the case, if Turkey comes in to the European Union Ireland might as well forget about having membership at all. We would be reduced to six members, the same as Malta. We need numbers in the European Parliament and I realise Ms Childers works with her colleagues in this regard. It is a vast complex and she needs all the back-up she can get. I wish her well as a candidate in the next election and if she runs as an Independent socialist I am confident she will be re-elected. I believe she has made the right move at this point.

**Senator Colm Burke:** Ms Childers is very welcome to the Seanad. I agree with her views on Seanad reform and I have been arguing the same case for the past two years. I will refer to Europe's role in the area of medicine, the role it is playing and the role it can play. I was in the European Parliament for two years, a brief time, but at the time the internal market committee dealt with the cross-border health care directive, which was passed in February 2011. I understand it remains to be transposed into Irish law but it is a welcome directive dealing with the free movement of people and the entitlement to access health care if it is not available in a person's country or if there is undue delay in his or her country. It is important that this directive is transposed into Irish law. I will continue to raise the question until such time as it

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is transposed. I understand this must take place within 30 months of 11 February 2011. This means there are only two or three months to go. I presume we must wait until it is transposed. It is an important directive and it is important that we set up the proper structures for dealing with it. The treatment abroad fund is probably covering this area at present. When I was speaking with those responsible they had not been familiarised with the procedures and it is important that familiarisation is put in place as soon as possible.

Ms Childers referred to the free movement of medicines. I believe this is a major issue given the cost of drugs and medication in the country. I have raised the matter here. I took part in a radio debate last night and focussed on this question. We have gone from spending €574 million per year on drugs and medication to spending €2 billion this year. There is no free movement of drugs and medication in the country or between this country and other countries. Ms Susan Mitchell from the *Sunday Business Post* has done a great service to the country with a number of articles she has penned in recent months highlighting items which are 25 times more expensive here compared to the United Kingdom. We have made little progress in bringing down the cost of generic drugs. We want people to benefit from the EU membership but this is one area where we have not benefited and we need to take action at national level.

We also need to ensure that people are not suggesting we cannot do certain things because of EU directives. The directives are provided to do the opposite, to help to ensure the cost of medication is reduced and that there is free movement. The EU Council Directive 89/105/EEC is being reviewed. It is important this issue is examined from the point of view of how we make it more cost-effective as well as addressing the domination of the market by several pharmaceutical companies in certain areas. That is another area that must be tackled. I accept they spend a great deal of money on research and development and that must be catered for as well.

It is important to highlight the benefits we get from Europe in the area of research and development. I am pleased to note that in the past two months UCC has got €6 million in research funding in the area of women's health. It is very appropriate, given the current debate. It is for research into pre-eclampsia, which is caused by high blood pressure during pregnancy. It has received €6 million in funding for research in that area, together with a private company which is involved in research and development. That kind of research funding is helpful in improving health care across Europe.

We have a lot to do in regard to co-ordinating research and development across Europe. I have raised this matter on a number of occasions and have compared it to how research and development is done in the United States. If there were more co-operation between member states, Europe would be a major beneficiary. We need to do a lot more in terms of sharing information and working together, as opposed to working as individual states. The United States is ahead in many areas of research and development.

I agree with Ms Childers on the sale of tobacco products, which is a significant issue. One frightening thing in Ireland is the number of young girls who are smoking. Education is needed and it is something on which we need to work hard over the next few years. The real cost to our health service of those who use tobacco products is huge and needs to be tackled over the next three to four years.

I thank Ms Childers for her contribution. I agree with her on Seanad reform and the role it can play in scrutinising EU legislation and directives.

On medical devices, it is important that in dealing with any new regulation, full consultation take place with the manufacturers of medical devices, which is a major industry in Ireland. The Joint Committee on Health and Children nearly rubber-stamped something issued by the EU. I asked if consultation had taken place and it had not. It is an industry which employs many people in Ireland, something of which we need to be mindful.

**Senator Jillian van Turnhout:** I welcome Ms Childers to the House. I wish to remark on her admirable commitment to transparency and accountability, especially in the area of appointments. In her words today she showed clearly that is something she practices. It is something we need to formalise more, within national as well as European institutions. I also note her 20 years' experience as a mental health professional, something she brings to her work as the co-chair of the European Parliament mental health interest group. Her background probably adds the human quality to her contributions in the Parliament.

I note her strongly held belief that the EU should not facilitate the pharmaceutical industry at the expense of good public health policy. I was happy to hear she was appointed as the co-author of the Parliament's legislation on pricing systems for medicines last year. Such a compassionate approach is often missing from politics. There is a tendency to lose focus on the impact our actions as legislators and parliamentarians can have on individual citizens, especially when dealing with the macro issue Europe currently faces.

In light of this, I commend Ms Childers's call in 2011 on behalf of the Group of the Progressive Alliance of Socialists and Democrats to see a more robust EU response to HIV-AIDS within our borders, particularly a greater focus on early diagnosis and care and ensuring the human rights of the patient are protected and upheld. I note that the findings of David Stuckler of Oxford University and Sanjay Basu of Stanford University, which were published this week, pose a link between the current austerity measures being implemented throughout Europe and a host of negative health implications, such as the 200% increase in the HIV infection rate in Greece since 2011, a figure I found startling and alarming. We need to redouble our efforts to ensure we deal with that worrying trend. Does Ms Childers feel there is any renewed focus or progress on this issue in the Parliament? What more can national governments do in regard to HIV and AIDS and examining the impact of austerity measures on our health services, which have a direct and real impact on the health of our citizens?

I commend Ms Childers on her work as co-chair of the European Parliament's MEPs against Cancer group. Today she clearly articulated her campaign against tobacco. She is right to frame it as a public health issue. When I was on the European Economic and Social Committee, I did a lot of work on alcohol-related harm. The industry wanted to focus on it as an employment issue but it needs to be considered as a public health issue in terms of the cost to public health services and the impact it has on the health of individuals. I do not envy Ms Childers's challenge in taking on the tobacco industry, because when I was rapporteur on alcohol-related harm, on two occasions the industry tried to question the evidence I had, the organisation for which I worked in Ireland - the Children's Rights Alliance - and my motivations. It did not succeed; thankfully, my colleagues on the committee knew me well and supported my amendments and opinion.

I am working on a Bill with Senators John Crown and Mark Daly to address the issue of adults smoking in cars with children. We need to protect children. We tabled the Bill almost a year ago. The Government is close to tabling amendments so we can bring it to Committee Stage. Perhaps it is an issue we can talk about at a European level. I sometimes think we should

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examine what influence we could have at European level on such legislation.

In terms of Seanad reform, perhaps there is a way we can bring issues that we, as national legislators, are working on to MEPs. We could consider how we can co-operate and further enhance one another's roles for the benefit of citizens, something for which we all wish. I ask for the support of Ms Childers for that Bill. Let us see how we can work together. I agree with Seanad reform.

On transparency and accountability, reform starts with the individual. I welcome Ms Childers's publication of her meetings with NGOs and lobbyists and her expenses - I publish details of all the public money I receive and how it is used. Sometimes we talk about reform in the abstract but we now need to talk about real reform, which starts with us and how we operate as legislators.

**Senator Denis Landy:** I welcome Ms Childers on behalf of the Labour Party Senators. Unlike Senator Burke, who played senior hurling in Brussels, I played on the junior team for six and a half years as a member of the committee of the regions. I have some sense of how matters in Brussels function and I respect the fact that Ms Childers outlined views that fit into a European context but not necessarily the Irish system.

I commend her on her excellent and detailed résumé of the work she has done as an MEP for the past four years. She has sometimes been outspoken and her frank commentary on the political system, as she sees it, in the European Parliament and on politics in general is refreshing.

I want to comment on her work on a new pricing system for medicines in Europe. I note from her contribution that new legislation will be passed and will come into effect some time in October, which will promote transparency in medicine pricing across Europe. Does she think this will tackle the pricing problem facing Irish people? As Senator Burke said, they can travel to mainland Europe and buy many products, such as cold and hay fever medicines, at prices that are 25 times lower than in Ireland. Regarding this and prescription drugs, how long does Ms Childers think it will take for this legislation to be transposed into Irish law and will the Irish people see the benefit of it in the near future?

I would also like to comment on the work that is going on in Ireland regarding the consumption of tobacco products and tackling cancer. I note from the work and campaigning Ms Childers is doing in Brussels that she has an integral interest in ensuring Ireland gets the benefit from this. How effectively does Ms Childers think the work she is doing in Brussels will affect the situation in Ireland, particularly for young people and given the health problems we are storing up for the future?

In her paper today Ms Childers expressed concern about transparency being required for lobbying, and her commentary on lobbying within the pharmaceutical and tobacco industries is well noted. I ask Ms Childers to elaborate a little more on how she sees lobbying being dealt with under Irish legislation. Ms Childers referred to the fact that she made a submission to the Minister for Public Expenditure and Reform, Deputy Howlin, on the matter and it is important for us that she expand on that subject in some detail today. Deputy Howlin intends to bring in a register of lobbyists and publish legislation on that matter very soon. Could Ms Childers explain to us today how she sees that working? Does she envisage a list that includes every lobbyist in Ireland? She mentioned that 22,000 lobbyists are resident in Brussels and Strasbourg. Does she envisage that Oireachtas Members would be required to register all interactions with

lobby groups on a daily or weekly basis? This should be done and I think it is workable. How feasible does Ms Childers think it is in the climate of Irish politics that we have come to understand and know over many years? Would she expect, for example, that every time a politician is lobbied - which happens from the time one leaves one's house in the morning until one goes home at night - it must be registered? Does she think this system is workable and feasible?

I welcome Ms Childers's interest in Seanad reform and her views on how the Seanad could take on a more proactive role regarding the examination of EU legislation. I find it very difficult at times to understand how EU law is transposed into Irish law for such ridiculous things as, for example, requiring an egg to be stamped and regulation on the shapes and types of vegetables we can sell. These are daft ideas that did not start in Ireland but have ended up being transposed into Irish law. What is Ms Childers's view on Ireland's being the "best boy in the class" and conforming with all EU regulations, in some cases to the detriment of our own economy?

How does Ms Childers see the role of the Seanad in bringing forward the legislation on lobbying? Does she have any comment on that? Could she expand a little more on her view that the European system of committees could be used in Ireland to better effect? Ms Childers mentioned in her contribution that there is no whip system in Europe and yet the system works very well. She was able to support 90% of the legislation that was brought through by Party of European Socialists, PES, groups in the European Parliament. How does Ms Childers think that would sit with us here in this Chamber, who are required to comply with a whip system, which Ms Childers knows can be difficult at times in the current economic climate?

I thank Ms Childers for attending today and giving us her perspective on lobbying, transparency, health and changes in the Seanad.

**Senator John Whelan:** I have great pleasure in welcoming Ms Childers to the Seanad today. She is a valued and respected colleague in the Labour Party. I had the good fortune only last week, at Ms Childers's invitation, to visit Brussels along with a group of 35 delegates from Laois and the midlands area. Not that we were in any doubt about it, but we could see at first hand her level of activity and work, the intensity of her work profile and the regard and respect with which she is held among her contemporaries and peers within the European Parliament structures for her work, particularly, as has been said by colleagues, in the areas of health and public health.

I want to ask Ms Childers about a matter of public health. I am not going to be a holy Joe or holier than thou. I like to take a drink - I am not anti-drink or teetotal - but we have mixed views and feelings in this country, particularly as policy makers and politicians, in our attitude to alcohol, particularly the abuse and excessive use of alcohol and the attendant social, domestic and health problems associated with it. Only last week horrific data came from the medical profession on the problems that are created as a result of alcohol abuse. What is happening at European level? While we criticise Europe a lot, it does drag Ireland kicking and screaming into a better world and a better place, as we are sometimes reluctant to bite the bullet ourselves. I am old enough to remember when we had the Carroll's GAA All Stars calendars and posters. The idea that a cigarette company could sponsor our elite GAA athletes would be regarded as an absurdity today.

**Senator Jillian van Turnhout:** Hear, hear.

**Senator John Whelan:** I am a serious fan of all sports, and I remember not long ago when

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Formula 1 cars looked more like cigarette boxes with wheels on them going around the tracks. Now we have people telling us the whole world will fall apart if we do not have alcohol companies sponsoring big sports matches and field sports. I will not single out anybody, whether it is GAA, soccer or rugby. We must face up to that reality and it crosses over into Ms Childers's other area of lobbying.

There is much lobbying going on in the corridors of these Houses, but one would not know half the time who is doing the lobbying. Deputy Howlin's legislation will not be a day before its time, when we have the register of lobbyists and who exactly is representing whose interests. We must put the public and community interest first. The Minister of State at the Department of Health, Deputy Shortall, was circumvented and stopped in her tracks when she tried to make progress in the Department of Health on minimum pricing and advertising of alcohol in certain contexts. What is happening in this regard in European legislation? We will ultimately have to face up to that reality and adapt to best practice in the area of public health regarding alcohol abuse.

**Senator John Kelly:** I also welcome Ms Childers and compliment her on her stance on austerity, with which I agree, as does the IMF. Before I came into the Seanad I spent 28 years working as a community welfare officer dealing with people on the margins. At the time one was dealing mainly with people on social welfare, but the new poor today are the middle income earners, the gardaí, nurses and teachers. No more blood can be sucked out of them. I feel very strongly, along Ms Childers's lines, that there must be another way forward. As Senator Landy said, we have been the best boy in the class and we have done as much as we can do. There must be another way forward. While I know Ms Childers sits on the European Parliament's environment committee, I am not sure if wind energy is one of her areas of expertise. For the past 14 months, I have been blowing the same trumpet on the issue of minimum distances wind turbines should be from family homes. I introduced a Bill on the matter, which passed Second Stage, which stated the taller the turbine, the further they must be set back from family homes. Of course, the Bill was parked, as Senator Leyden predicted with all his experience in this House.

**Senator Terry Leyden:** I thank the Senator for reminding me.

**Senator John Kelly:** Many articles have appeared in the *British Medical Journal* suggesting there are health implications such as nausea, sleep deprivation and even cancer and heart attacks, arising from living too close to wind turbines. Although the Irish Wind Energy Association is a large lobby group, it is not able to counter these articles. Has Ms Childers heard any other debates in other EU member states on wind farm developments and energy? In the UK, they have decided they have enough of them and are asking us to erect them in our country for the provision of their power to destroy our landscape. When I met the Finnish ambassador several months ago, I told him of the problems we are having with wind farm developments too close to people's homes. Finnish policy, he explained, is that if people do not want them, the authorities do not force them on people. That is not the practice in this country. It is the Government's policy to reach certain targets and many of these farms are foisted on people.

**Ms Nessa Childers:** Senator Leyden asked about a certain organisation. While I am not quite sure about it, I suspect it might well be a front for the tobacco lobby. I will talk about it later with the Senator because it is not appropriate to discuss it in public as I do not know the full story.

Senator Leyden also raised the matter of the loss of an Irish seat in the European Parliament due to the accession of Croatia. If any more countries join, I believe more seats will be provided. At this rate, we will probably have to be in another building because there are not enough seats in the hemicycle where we vote. While we have made our feelings known about the seat, the Government will not use its veto in this regard. I am sure no other government would have used the veto in this case. I have heard rumours that Greece and Romania are getting twitchy about it, however.

Many of the issues relating to national parliaments and legislative oversight as provided for in the Lisbon treaty are the responsibility of each member state. If the oversight goes below a certain level, there is a violation of the Lisbon treaty. It is the Government and political parties which must deal with that failure. One cannot have legislative oversight unless the Seanad is allowed to object to legislation and vote it down. One really should not have this protected situation. The whole Irish political system simply rubber-stamps legislation and has voted through emergency legislation without anyone knowing properly for what they are voting. I recall my father in the early 1970s was concerned about emergency legislation. There were emergency Acts going through the Dáil, some of them at 3 a.m. I remember him saying we will rue the day when we pass legislation without knowing its consequences and we will not be able to repeal it or forget to repeal it. It does not matter if people agree with legislation as there is a whole principle of informed consent. This moves outwards from emergency legislation, like the vote on the promissory note, to European oversight. How does one end the rubber-stamping? I cannot do anything because it is a political issue. The Government has a huge majority and the Seanad will crash and burn unless Senators exercise hard political power to stop it happening. It involves more than talking.

Senator Burke referred to the free movement of medication. That is part of the cross-border health care package and prescriptions, for example, could be used in different member states. It is complex legislation but it means people will be able to receive treatment in other countries. This legislation will be transposed in about three months.

I have been talking to the medical device industry for well over a year now on this review of the directive. The fact the Poly Implant Prothèse, PIP, breast implant scandal happened in the middle of the review was not helpful. It will be difficult to guarantee against criminal fraud such as that but there are other issues involved.

Senator van Turnhout spoke about early diagnosis of HIV-AIDS. MEPs can actually act as advocates at that level in member states and encourage best practice. The best European medical practices are transposed in member states. That is one of the reasons we have round-table discussions. Early diagnosis of many health conditions is becoming a problem because of cutbacks. Early diagnosis is a *sine qua non* because it is necessary for the patient and is more cost effective in treatment.

Senator van Turnhout referred to the public health situation in Greece.

*3 o'clock*

If people knew what was happening with regard to public health in Greece generally, they would be absolutely horrified. People are not being treated properly for cancer. To some degree, the Greek health system has failed. Médecins Sans Frontières is now in Greece trying to deal with the situation. Children there are suffering from malnutrition and have been seen go-

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ing through bins searching for food. Well over a year ago, we began to hear what was happening with regard to the health system. I have asked doctors everywhere to try to help and some of the medical organisations here are interacting with their Greek counterparts. Great things have been done by doctors in Greece in trying to keep hospitals open but what has happened there is a lesson for us. How, with the Lisbon treaty and the Charter of Fundamental Rights, we could have allowed such a situation to occur is beyond me.

We must be wary of where we are going here. If, as part of this austerity, we cut hundreds of millions out of our health budget, people must ask questions about what will happen to our health system as a result. Our health system is already staggering under the weight of cuts that have been imposed. We should be horrified by what has happened in Greece. We should be horrified that such things can happen in any European Union country. We must also be wary of what may happen here. Any investigation into the current Greek health situation will demonstrate what I mean.

The issue of tobacco as a public health issue was raised. I maintain that tobacco should be banned. Both my father and my brother died of tobacco-related illnesses and one of my other brothers had a heart attack and survived, but had to stop smoking. When it affects one personally, one realises the need to control the sale of tobacco. We are up against the lobbyists. The information is in the public domain that two Ministers met with the tobacco industry, in violation of the world tobacco treaty that was ratified in 2004. It is within Members' remit to ask questions about that. I am a great believer in asking questions. A great deal needs to be done at national level. Somebody suggested the banning of smoking in cars carrying children. I would agree with that. I grew up with pipe smoke in the car. I have developed asthma since, and am convinced it is as a result of spending hours in a smoke-filled car. We did not know then about passive smoking, but I am convinced it is one of the reasons for my asthma.

I am looking at my notes to see which questions I have yet to answer.

**Acting Chairman (Senator Diarmuid Wilson):** Sometimes it can be difficult to follow or understand some Senators. Feel free to seek a clarification on any of the questions.

**Ms Nessa Childers:** There has been a lot of talk about lobbying and my submissions on how we should deal with it. Legislation is not needed to begin that process, although it would be helpful. Members could list on their websites the names of everybody they meet who is trying to influence them. Of course, there is nothing wrong in that. If Members look at MEPs' websites, they will see that a number of MEPs, including myself, list all the meetings we have with what I consider lobbyists - not only industry lobbyists, but environment and health NGOs. Those whom I have met can be seen on my website. Also, any event I attend where I receive hospitality is mentioned. Sometimes I go to a meeting, but do not eat or accept the hospitality offered. I have found recording this quite difficult. One should try to record when one has been in receipt of hospitality. There have been occasions on which I have attended meetings but have not had the food on offer.

**Senator Terry Leyden:** Would Ms Childers take a glass of wine?

**Ms Nessa Childers:** I do not drink during the day and not much at night. That is another health risk for politicians.

**Senator Terry Leyden:** Ms Childers is setting the bar very high for everybody else.

**Ms Nessa Childers:** Senator Whelan raised the issue of alcohol-related harm and the position in Europe. This is a national issue, but it does arise in the European Parliament. The expert platform in which I am involved is attempting to try and draw it down to national level. This is difficult, because it is a member state competence. The issue of the pricing of medicines is also a member state competence, but member states now have the ability to see what other states are paying for medicine. This issue is contentious also and is going to the Council in October. The Irish Presidency is trying to deal with that legislation. Members here have a way of influencing European legislation. They can interact with the Irish Government members who go to Council and negotiate and in that way try to change their policy.

To return to the question of alcohol, we have not yet addressed the issue of putting a floor underneath the price of alcohol. Perhaps somebody here can tell me the position regarding that legislation. Has it ground to a halt?

**Senator Denis Landy:** It is under discussion.

**Ms Nessa Childers:** That discussion should be conducted as quickly as possible. Alcohol and tobacco are hugely problematic and the lobbyists in both areas are very powerful, particularly in the alcohol industry. We see lobbyists in these industries disguise themselves in various ways - for example, as anti-smuggling or anti-counterfeiting lobbyists. These are concerns, but if we know how to investigate these issues, we can find out who is behind them. If we do find out, we must expose them. There are a number of ways of going about this. In the case of tobacco, I consider public relations firms that work in the tobacco area to be the equivalent of arms dealers. Deputy James Reilly said something even worse about them. I told the ASH organisation that I would expose such firms if I saw them, and I did. I know that is a hard approach, but it is necessary. If our children are not to die of tobacco-related illnesses, this is what we need to do. I do not believe lobbying in regard to tobacco is the same as other kinds of lobbying or public relations, because these lobbyists support things that kill people. On our attitude to alcohol, it is up to all of us to change the attitude. Perhaps we should provide an example here.

Senator Kelly asked about wind energy, but I need to explore that further as it relates to the energy committee rather than the environment committee. There is so much legislation to be dealt with overall that one could easily become derailed. I am aware that when the Chair of the environment committee came here as part of the Presidency, he met with people in the wind energy sector. I must ask him more about that, but I will also find out what the position is in Europe with regard to wind energy. Our planning system does not work very well with regard to these things. We must also be very sensitive to the health implications of wind turbines. I am not an expert in that area and I have not had the time to explore it.

I think I have dealt with all of the questions, but feel free to tell me if I have not.

**Senator Denis Landy:** I would like to thank Ms Childers for her very honest response. I realise there were a lot of questions to be answered, but perhaps she will give a little time to one I raised concerning the willingness of the Irish State to transpose legislation into Irish law, sometimes to the detriment of our economy and sometimes creating a disadvantage for Ireland against other EU states. I discovered during my hurling days in Brussels that other member states just left some of this legislation on the shelf and carried on regardless. We were the good boys in the class and we suffered economically. Would Ms Childers like to comment on this? Is it just a view I have picked up which is not fair or would she have seen it from a broader

perspective?

**Ms Nessa Childers:** We certainly were not the good boys with regard to some legislation on the environment such as the habitats directive and the water framework directive. I do not know where the “good boys” thing came from in that area. In other areas, it is how we transpose legislation, which is a national competence. It can be done in more or less difficult ways, but how it is done is the business of people over here. Surely, how it is transposed should be part of the Seanad oversight.

Some Members may have more experience on this issue. I have never been a national politician, God help me, so I do not actually know how this works in a detailed way, but perhaps some Members do.

**Acting Chairman (Senator Diarmuid Wilson):** Before I call Senator Crown, I want to welcome the group of women from Cavan to the Visitors Gallery. There is at least one woman from Monaghan here also. I hope they enjoy their tour.

**Senator John Crown:** I welcome Ms Childers, who has been a wonderful ambassador for our country in the European Parliament. I speak as a committed European and, in many ways, as an anti-nationalist with a small “n”. I have this theory that, in 50 or 100 years time, people will look on the concept of nationalism in a somewhat similar way to the way they look on the concept of racism now. I do not necessarily think it a great idea.

I would, however, like to say that from a practical and democratic point of view, harmonisation, laudable as it may be in many areas, should not be an end on its own. It should not be an absolute goal we aim for because harmonisation sometimes means winnowing things down to the lowest common denominator rather than striving to the highest plateau, where things are at their best. This has certainly been the case with some aspects of health and research. There have been a few areas in recent years where an attempt to enforce harmonisation has had potentially negative, and in the future could have potentially disastrous, consequences on areas that are very close to my heart, for example, clinical trials.

About seven years ago, Europe introduced the clinical trials directive, which attempted to address the kind of chaos many people who work in bureaucracies do not like when they see dissonant sets of criteria and goals, and different jurisdictions over which they have some kind of loose authority doing the same jobs. It just happened there were very different ways of approving clinical trials in Europe and an attempt was made to harmonise them. As part of the harmonisation process, a number of the measures which were introduced, which I will not bore my colleagues with today, are now generally recognised to have been very negative. However, because this passed the Commission and then passed the Parliament, there was not a mechanism in Europe to roll it back.

At the time that harmonisation was dawning, a few of us started an information campaign to try to get people to wake up to what they had actually signed up to. We were told politely that, because it had passed both entities, it is now written in granite, cannot be changed and we are stuck with it. Luckily, it was a directive and not a regulation, which basically meant we could ignore it, although people did not quite understand it at the time. There should be a big learning curve attached to that.

A regulation is now coming in and I believe it needs real and careful attention. The instinctive, visceral harmonisers, well-intentioned as they may be, as they are not familiar with the

realities on the ground of how a lot of research works, may end up taking some of the worst jurisdictions from the point of view of research and enforcing their standards on the rest of us. Without in any sense being disrespectful to our near neighbours, clinical trials in the United Kingdom have been extremely difficult to conduct in recent years. The approvals process has become so long that many British patients, in particular British patients with breast cancer, have been denied early and expeditious access to drugs which could have been very beneficial for them. I greatly fear that, in pursuit of compliance with forthcoming European regulations, the same kind of regressive regime may be imposed here. In the next month or two, I hope we will be looking at this closely in a number of fora in our own jurisdiction, but I would like to mark Ms Childers's card that there are problems with it.

Other collateral damage which arises from good intentions relates to the attempts to bring in data protection legislation. Those who wish to bring in such legislation have their hearts in the right place in that they are trying to protect private and personal data that people may have online and so on. However, they did not think it through to the extent that there is a real risk the kind of cancer and other research which involves collecting specimens in many cases from people who are deceased - this is the kind of research that enabled us to introduce a number of critical drugs like Trastuzumab, otherwise known as Herceptin - could not take place now under the new regime because dead people cannot give consent to have their anonymised materials used for research purposes. Again, not only is the baby going out with the bath water, there is potential for real disaster which needs to be addressed.

On the issue of drug pricing, there is a bigger picture. In Ireland, we have been misinformed about what we need to do. Obviously, we need to move in a large way to the use of generic drugs and the cheapest alternative drugs. As I said, I have voted with my own health on this. I now insist on taking a generic cholesterol lowering drug myself and I believe everybody should insist on getting the cheapest generic drug for whatever conditions they have.

However, there are some things we cannot do in this jurisdiction. I want to draw attention to something that is happening with cancer drugs. For many years, we had no new meaningful cancer drugs because science and technology had not yet caught up with the theoretical science to give us new drugs. There has been a revolution in this regard. In the last decade we have seen several drugs per annum and in the last few years we have seen several drugs per month coming out, with data which looked extremely promising. People have this idea that drugs have been priced by some kind of a mark-up principle on top of the development cost of the drug. That is changing. What is happening now is that highly technically proficient and skilled marketeers, using the principles, theory and practice of marketing, are trying to work out what is the highest price one can charge at which the inflection point for demand occurs - when it becomes elastic and people will basically say we will no longer pay for that drug because it is too expensive. They are pitching for the very highest point on that curve.

Coupled with the kind of emotional blackmail which is built into the availability of new drugs, we have the situation where a drug like Herceptin, with which I was very involved, cost about €30,000 per annum to provide. However, I know the trials that were used to licence Herceptin involved 15,000 patients, so there was an expense involved in developing the drug. There are drugs coming out now that are being priced at between €100,000 and €200,000, and I know in the case of one drug that the licensing trial which led to this drug being licensed involved fewer than 100 patients. There is an absolute, utter and complete mismatch occurring between the development costs of drugs and what companies are going to attempt to charge for them in the future. This is because of market forces. While I am broadly sympathetic to market

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forces when they are true markets, this is not the case with regard to monopoly markets, which is what drug companies with a new product for an emotionally draining cancer have.

What we need to do collectively in the Western world, including in Europe and with our colleagues in other parts of the Western community of similar democratically and economically constituted countries, is to have a concerted policy which will say to the companies “You make great products and you deserve to make a profit, but this is the limit and we are never paying more than this for any drug you come out with. Learn to live with it, make the drug viable and it can be done.” This is something we will be attempting to launch as an information campaign over the next while.

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I heard Ms Childers’s comments on second-hand smoke exposure. I am the sponsor, together with Senators van Turnhout and Daly, of the legislation which we hope, perhaps in this session, will result in one of the successors to Ms Childers’s late, great father’s office signing legislation which will make it illegal to smoke in cars in which there are children. We are trying to go further. What we are trying to do is to create a debate in Europe around the idea that the tobacco trade, which is a part of the drug trade, is not just something we should be regulating and reining in, it is something we should be ending. People may have a right to smoke, and I do not dispute that, but no one has a civil right to addict children to cancer-causing chemicals. It is absurd to think there is a civil liberty to make a profit from selling cancer-causing addictive products whose very commercial continuation depends entirely on recruiting new underage smokers to the ranks of the abusers.

That is why we have started a campaign called SOS 2030, which has a website I hope Ms Childers will sign up to and ask all her European parliamentary colleagues - a minority of whom, I presume, do not smoke - to sign up to. This will commit us to the idea that we will start the wheels rolling so that by the year 2030, after we give the farmers time to grow something else, give the pension funds time to divest and give the factories a chance to re-tool the plants and to make food products rather than tobacco products in an increasingly food deprived and challenged world, it will just not be legal to engage in any commercial transactions with tobacco. People might argue that this will encourage smuggling and the black market. Yes, it will but if the people in the boardrooms of British American Tobacco, R. J. Reynolds and all these other entities wish to sell tobacco by that date, they will be doing it with the same commercial plan and according to the same business model as the Medellin or Cali cartels or the Taliban in Afghanistan. If they wish to continue doing it, let them do it. It will suck the money out of the PR companies and lobbying agencies which have so polluted public policy in this area. It may sound a bit quixotic but it is something we should aim to do and I believe it is quite practical to get people to sign up and join it now. I thank Ms Childers for the opportunity to meet her again and look forward to working with her on a number of these health-related issues in the future. I apologise as I must leave the Chamber as I have been called to another health-related meeting.

**Acting Chairman (Senator Diarmuid Wilson):** Before I ask Ms Childers to speak, I will

take a very brief supplementary from Senator Colm Burke.

**Senator Colm Burke:** I thank Ms Childers for her contribution here today. I wish to touch on the role of medical practitioners in this country and how we as a country seem to be going outside Europe to recruit doctors. I think we now have the highest number of doctors from outside the EU compared to any other country in Europe and are taking them from countries that need to retain their own doctors. I also wish to touch on the need for co-operation between Europe and Ireland with regard to training. We are very much tied to the UK, which is very much tied to India, Pakistan, Sudan and a number of other areas. As a result, we have junior doctors coming from those countries. We need to do much more work regarding doctors travelling from within the EU to work in other countries. I do not think we are doing enough in this area. From a European perspective, there is a huge advantage for us in developing common training in a range of areas relating to medical education.

**Ms Nessa Childers:** I thank Senator Crown. The clinical trials directive is now being re-done and is going through the European Parliament. It may go through overseen by the Irish Presidency. This is where MEPs can interact in all kinds of ways with interested and concerned people. We can put down amendments to these directives if we think the legislation is going in the wrong direction. I already have my eye on the clinical trials directive. The rapporteur is a British socialist MEP, which is interesting when Senator Crown is talking about the situation in the UK with regard to clinical trials. We will be monitoring that very carefully because although the clinical trials directive is very technical in some ways, it will impact on many people with cancer. There are many technicalities. Senator Crown was very concerned that things will go wrong with the harmonisation process. We need to be very careful about who could be harmed by a lack of access to trialled drugs and how quickly they come out of trials.

Data protection is another thorny issue. I attended a large conference recently where that issue was discussed. There is no easy answer to it but I imagine it will be dealt with one way or another. Senator Crown referred to the mismatch between the cost of drugs and how much they cost to develop and the inflection point. There seem to be so many issues relating to the price we pay for drugs in Ireland. I do not understand what the real issue is. The troika has seemingly met with the heads of the large pharmaceutical companies. I suspect that some of the reasons for this result from what goes on behind closed doors. Ireland needs to deal with that issue. I do not understand why it is so difficult. We have done our best to manoeuvre the legislation on the transparency directive regarding the pricing of medicines through the Council. It is still quite contentious. Member states do not like their competences being interfered with this area so it will go to the Council in October.

With regard to the tobacco industry, we need to create a debate about whether anyone has the right to sell products that do this to children. The SOS 2030 initiative is very interesting. By 2030, perhaps we can change practices in countries where agriculture is partly based on growing tobacco. That is very difficult. These countries get very worried about this and lobby against it. It is not easy because they will tell one that thousands of jobs will be lost. That may not be true but some way must be found at member state level to negotiate our way out of tobacco being legal. The European Parliament has 736 MEPs, including 12 Croatians. We must find compromises all the time for everything, including tobacco. Otherwise the legislation fails and does not go to plenary and the whole thing falls apart. We do not want that happening with the tobacco directive.

In respect of the training of medical practitioners, there is a directive called the professional

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qualifications directive. It does not relate to my committee. It is being dealt with by the Internal Market and consumer protection committee but I have been overseeing it. I am holding a seminar with a Romanian MEP about doctors leaving their own countries and going to work in other countries and the shortages this causes. There is a problem with the infrastructure in health services. It will be interesting to see what comes out of that. The professional qualifications directive is supposed to deal with this. The Irish Medical Organisation visited us in Brussels. It is quite controversial in ways I will not go into because it is not my area but there are controversies regarding the harmonisation of qualifications in different European countries.

**Senator David Cullinane:** I welcome the Minister to the House and thank her for being here.

**Senator Terry Leyden:** She is not a Minister yet but she will be.

**Senator David Cullinane:** I should have said MEP, or Deputy, which I think is the right term. My apologies for that. We are used to having a Minister sitting in the chair in which Ms Childers is sitting. I know she has been vocally opposed to many policies coming from Europe and even from this State in recent times, which is to be welcomed. The topic she is here to discuss is the challenges for transparency in decision making with regard to EU health policy and a role for the Seanad in scrutinising EU policy. I would certainly be a big supporter of the continuation of the Seanad and a clear role for it in scrutinising EU legislation and having linkages with our MEPs.

In respect of health, this State still has a problem with people waiting on hospital trolleys, long waiting lists, people not getting proper treatment and people with private health insurance getting treated more quickly and in a better fashion. This is a form of institutionalised queue jumping. That is the reality of our public health service and its incremental privatisation. We are here to discuss transparency. No Senator could honestly say that we have a transparent health system when one looks at the HSE and what it has become over a long period of time. I know the Government says it is committed to dealing with it but I do not see any evidence that what we will get will be a truly transparent system. We are all waiting for the Higgins report, which Ms Childers might be aware of, which will look at a reconfiguration of hospitals, the formation of groupings and then trusts. There will be clusters of hospitals with academic linkages such that big hospitals will link with small ones through third and fourth level academic institutions.

There is still no democratic accountability. The old health boards were abolished and the HSE was set up. Time and again in this House I have heard the current and previous Ministers for Health and Children washing their hands of responsibility for what is happening in the health service. I do not know if anybody in this House has used any of their colleagues in the Lower House to put down parliamentary questions to the Minister for Health and Children. If so, seven out of ten replies refer the questioners to the HSE which will refer them to somebody else. One goes around the houses before getting a response. Transparency is the last thing we have in our public health services, unfortunately. This State is not in a position to lecture anybody in Europe about health policy, accountability and transparency when it is so lacking in those things itself.

I had a lot more to say because I did not realise I had only two minutes in which to speak. I will wrap up by thanking the MEP for coming to the House. Health is an area in which the EU can be a driver for real change. Like Ms Childers I believe in a social Europe. The EU has

lost its way. It has been overtaken by neo-liberals who are implementing policies which work against the development of a social Europe. I would like to see it move in a different direction. It should focus on health, education and investment in public services. It should make sure that people have rights and that those rights are vindicated by member states and that we do not have the institutionalised inequalities in public services which we now have across Europe. The EU could do a lot more in the area of health care to achieve the social Europe that Ms Childers and I want to see. I would appreciate her thoughts on that and on the Irish health care system.

**Senator Feargal Quinn:** I welcome Ms Childers to the House. I am delighted she is here. We learnt that her title is to be Deputy. I welcome this debate on the EU public health legislation and I agree entirely with Senator Cullinane. There is a future for this House but it must change what it does. One thing we can do is make sure we change our duties, one of which must be to ensure EU legislation receives much more scrutiny than it has had up to now. Much of the legislation that comes from Europe aims to improve the lives of European citizens and public health legislation can be seen as one of the principal and obvious areas in which the EU can benefit its citizens.

The title of the Deputy's address points me to several specific topics, including tobacco lobbying. The EU Commissioner for Health and Consumer Policy, John Dalli, resigned over allegations that he used a middle man to ask a Swedish tobacco company for millions of euro to change EU legislation on tobacco, as well as the horsemeat scandal. I will quote from a letter from transparency group Alter-EU as reported in *The Parliament.com*, which states, "The commission has now been attacked for its 'failure' to 'properly implement' an international convention designed to protect lawmaking from the 'vested interests' of the tobacco industry." There have been claims that European Commission departments "currently fail to provide transparency around meetings with tobacco industry lobbyists and those working to further the tobacco industry's interests." It also seems that some MEPs have been fielding questions and putting forward amendments on behalf of tobacco lobbyists. I would love to know the Deputy's view on this. Can she elaborate on whether the EU institutions are doing anything to remedy this?

The point I find worrying about the horsemeat scandal is that it came to light only via a random food check here. While some argue this is not a public health scandal, and I agree, can we have confidence in the EU's ability to prevent a full-blown public health scandal such as that might have been? There has been an argument that relatively recent EU requirements on mincemeat pushed up costs and led to retailers buying questionable meat from other sources, including those outside the EU. The horsemeat scandal does not inspire much confidence in the EU.

I have always called for more traceability. That can extend to pharmaceuticals. In Belgium and Italy every drug can be traced with a bar code. This is a very important service, especially when there is a massive rise in counterfeit medicines. I am not referring only to Ireland but to the whole of Europe. What are we doing at a national level? We must do everything to protect the consumer and we have not been doing that. I welcome the recent vote in the European Parliament on giving patients quicker access to cheaper generic medicines. New EU rules will require national authorities to meet these new deadlines. I would like to hear the Deputy's views on whether we can do more than we are doing to protect the health of European citizens.

**Ms Nessa Childers:** In response to Senator Cullinane, I do not know I can talk about the HSE here. I despair of it. The Irish health service seems to have been malfunctioning for decades. The only thing I can do is work as an MEP on legislation in the European Parliament.

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I work with many health groups that work here. They come to see me in Europe, with their European counterparts. I go to meetings and have round table discussions with them but I cannot change the Irish health system. That is the job of the Oireachtas. All across Europe health systems in countries that are in austerity programmes have suffered. This appalling austerity is apparently the result of a mistake in a spreadsheet which is a simplistic way of looking at it, but it may be true. Greece has suffered the most. I spoke about that before Senator Cullinane came in to the House. I can draw attention to those things. I can use political pressure on Irish legislators but it is beyond me to understand how our health service has got into the current situation. It is only partly the responsibility of the present Government. This has been going on for years.

Somehow or other we will have to change the health system. Strides are being made towards changing it to a universal health care system. There can be problems with that as well, as there are for example, in Holland. Anything would be better than what we have now but we will have to deal with it for another few years. It is not my place to talk about the HSE. The Senator's colleagues in here can perhaps answer those questions. I see how 27 other health services operate. In the EU, health is still a member state competence but the situation is so bad in some countries that at meetings people ask if, for example, in Greece, we are violating the charter of fundamental rights because of the problems people have accessing health services there. It is very frustrating but it is a member state competence. Apart from the directives we have discussed such as the cross-border health care directive, which at least gives some people some rights to health services, the tobacco directive and clinical trials directive are in our competence. I cannot talk about the HSE. It is too difficult.

Senator Quinn spoke about the horsemeat scandal. It was discovered almost by accident. The Senator is right that prior to this there have been problems around traceability in the European Union, for example, the dioxins in pigmeat. The horsemeat problem has forced the EU and those with responsibility for food safety, which is part of the remit of my committee, to examine how it does things. What transpired was that there were massive failures. Possible fraud occurred in up to 14 European countries. As in the breast implants situation, labels were changed and people thought the product was beef but it was horsemeat. Perhaps the cost of meat was behind it. However, we must do something about it because the loss of confidence in our food has become obvious as a result. It was not only the fact there was horsemeat in products; I am not sure people liked the idea that they did not know what was in the food they were eating. As MEPs, Deputies and Senators, we must be much more careful to warn people about the content of certain processed foods.

This concerns the whole question of food labelling. I am not sure whether Members would have agreed with the traffic light system which we failed to get through the European Parliament, although we got country of origin labelling through. It was one of the regulations which was of great interest to everybody who was interested in food. I will meet Green Foundation Ireland in September on this subject. We must work very hard to ensure we do it right. The horsemeat issue was a wake up call. It should not have happened but it did.

**Acting Chairman (Senator Diarmuid Wilson):** On behalf of all colleagues, I thank Ms Childers for coming to the Seanad and for her very comprehensive contribution and for the answers she gave to a variety of question posed. Perhaps some questions were not relevant to the topic but she was gracious enough to answer them in great detail.

*Sitting suspended at 3.45 p.m. and resumed at 4 p.m.*

*4 o'clock*

### **Charities Regulation: Motion**

**Senator Mary Ann O'Brien:** I move:

That Seanad Éireann:

- commends and expresses thanks for the tremendous work being done by the many thousands of Charities operating in Ireland at present;

- recalls that the Charities Act 2009 was enacted with the aim of supporting and enhancing public trust and confidence in charities, to provide for the statutory registration and regulation of charities operating in Ireland, including the establishment of an independent Charities Regulatory Authority;

understands that there are resource considerations that have led to the deferral for the present of further implementation of the Charities Act, including the establishment of the Charities Regulatory Authority;

- notes that putting in place a dedicated Charities Regulator will help to support and enhance public trust and confidence in the sector and allow it to flourish and reach its full potential particularly aiding the Government's 'National Giving Campaign';

- appreciates and welcomes the recent public consultation conducted by the Minister of Justice, Equality and Defence, Deputy Alan Shatter, designed to explore ways to progress the Charities Act of 2009 which closed on 20 March 2013;

- notes and welcomes that, as stated in the consultation document published by the Department of Justice and Equality on 23 January 2013, statutory independent regulation of the charities sector remains a Government policy objective, and the Department is now working to establish a Charities Regulatory Authority, as provided for in the Act, but taking account of the changed budgetary circumstances;

- acknowledges and welcomes the report published by Senator Mary Ann O'Brien on 26 February 2013 which explores the need for Charity Regulation in Ireland and presents various options for discussion in order to achieve a regulated sector;

- acknowledges the Private Members' motion sponsored by the Independent Taoiseach's Nominees on 27 March 2013 calling for a national debate on the current context and challenges facing the not-for-profit sector with regards to philanthropy, fundraising, sponsorship and private giving in Ireland which was passed by the Seanad without a vote;

- and looks forward to the publication by the Minister for Justice, Equality and Defence, once the review of the submissions received is completed, of the outcome of the consultation and further information regarding the Government's timeframe for the introduction of an operational Charities Regulator and full implementation of the Charities Act.

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I welcome the Minister for Justice and Equality to the House. I congratulate him for undertaking to finally implement the post of charity regulator that we are here to discuss today. The post is badly needed in Ireland. Despite an excellent Bill being enacted in 2009 we all know that an economic tsunami hit soon afterwards that almost drowned us all and funding has not been possible.

My motivation for regulating the charity sector started in 1998 when my husband, Mr. Jonathan Irwin, and I co-founded the Jack & Jill Foundation. On our journey with the foundation we came in touch with other charities, with people who joined the foundation and with people who worked as social entrepreneurs and in the charity sector. I can vouch that there are thousands of extraordinary citizens who work for charities. They are guided by a moral and genuine passion for their cause that is exemplified by the activities that they undertake. That is why we are here today to see if we can, following a robust discussion, push for a badly-needed regulator post.

Earlier I published a paper that was designed to explore ways to progress and assist the Minister and his Department. I hope that it also invites thought and discussion on the needs of the charity sector and I mean that in a respectful way. All of us commend the work that has been done. Red tape, bureaucracy and conversation may go with the provision of a regulator but in no way do we mean to criticise the sector because people are 100% dedicated, passionate and work to a level of perfection.

Every couple of weeks there is a media report on charities. Last week in the *Evening Herald* an ex-CEO was found to have helped himself to cash from ATMs all over the country. Last Thursday I was surprised by a “Prime Time” report and then *The Sunday Times* published an article on charities last week. However, we do not want to discuss any of the reports in detail here. This is 2013 and we are living in a recession where citizens must scrutinise everything that happens in public life. Charities mainly deal with public money and the Government has given approximately €4 billion to the charity sector. A timebomb is waiting to explode and all it needs is one huge story on charities. We are being drip fed little stories and they have slowly but surely damaged the reputation of the charities sector. Ireland is a nation of givers but donations will decline if there is not transparency. The media feels that it has a right to know the salary of a CEO. Why do some charities respond with the phrase “No comment”? Transparency is required.

I was accompanied on my journey in the sector by a great gentleman called Mr. Conor Woods who works for Russell Brennan Keane. I salute him as he is seated in the Visitors Gallery. He is an expert accountant and also has expertise in corporate governance. I also salute my assistant, Mr. Kevin Kelly. We have all travelled on a long journey. We visited the Office of the Scottish Charity Regulator in Scotland and the Charity Commission in London where everyone was terribly helpful. Both organisations are government funded. They realise that England is going through a hard time and are considering a self-funding model.

At the back of my report there is a business plan to self-fund a regulator for the charity sector. Some may think asking charities to fund a regulator is a touchy-feely idea. Let us consider OSCR which has 23,066 charities registered in Scotland with 23 staff members and costs £3 million which sounds like a lot of money. However, it is possible to provide a regulator without having a vast number of people in an office. Ms Una Ní Dubhghaill is the Minister’s main person to drive the initiative in his Department. She has advised me that we should slowly put the regulator post in place because we cannot achieve everything at once, even though she knows that I want everything done straightaway.

I shall outline another issue that I am crazy about. We have approximately 8,000 charities and one can research them on *revenue.ie*. The Government has given €4 billion to the sector and I am sure that the Minister is aware of that when he sits around a table with the Cabinet to discuss the sector. Imagine what could happen if the Government, academics, statisticians, students and the general public could access a central database to carry out research. People would be able to see how many charities provide for children, autism, health or are registered for foreign aid. The Government could easily check how funds are used and check value for money. There is a great need for such data and a regulator could provide it but that will take time.

Earlier this week I spoke to a famous philanthropic organisation that informed me that ten Irish charities have turned down donations because they felt unwilling - I presume that they felt unable - to produce the financial information to the level sought by foreign donors. We are all aware of the demands placed on businesses today. My company supplies blue chip companies abroad who audit us until we are blue in the face. It does not matter whether it is a British Retail Consortium audit or a financial audit, the same standards must apply to a company like Microsoft if it wants to make a giant donation to an Irish charity. That is another reason to have a regulator. The Minister might respond to the suggestion standards similar to those required by the Companies Registration Office in respect of a business or SORP, Statement for Recommended Practice, for accounting practices should be put in place for the charities sector. According to Mr. Conor Woods, SORP provides for an extremely high level of accountancy standards recommended by the Office of the Scottish Charity Regulator and the charity regulator in London.

I acknowledge that there is a great deal going on in the country. I congratulate the Minister and his Department on the public consultation process, submissions to which are being sorted. While I acknowledge that this process will take time, we cannot wait until 2015 or 2016. The charities sector is a wonderful one, driven by volunteers and passionate individuals. Looking to best international practice in New Zealand, Scotland, America and England, we cannot in 2013 continue to allow this sector, to which we give €4 billion of taxpayers' money, to go unregulated.

**Senator Fiach Mac Conghail:** I welcome the Minister. We appreciate the time and consideration he has given to this issue and acknowledge his support for this dialogue in the Seanad. I also acknowledge and appreciate that the Government has not proposed an amendment to the motion.

The motion links with a debate we had with the Minister's colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, a couple of weeks ago. In terms of the Seanad's role, this is an area not only fellow Senators but also the not-for-profit sector need to continue to debate and share information on. There is an element of trust we can bring to the debate. I am, therefore, proud to second the motion tabled by my colleague, Senator Mary Ann O'Brien, whose work in the area of advocacy and transparency I commend. Her recently published paper on implementation of the Charities Act 2009 provides an excellent context for the challenges facing the voluntary and not-for-profit sector. I am interested in hearing the Minister's views on how this might be funded, whether he agrees with the Senator's model of funding and so on.

I welcome members of the fund-raising and development community and not-for-profit sector who are in the Visitors Gallery. If I could have charged for seats, I would have made a great deal of money. Among those in the Visitors Gallery are representatives of the National Concert Hall, The Wheel, Jack and Jill Children's Foundation, Business to Arts and so forth.

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As stated by Senator Mary Ann O'Brien, we are at an interesting crossroads in the philanthropic arena. Some good policies and fund-raising leverage schemes have been developed in the Department of Arts, Heritage and the Gaeltacht. We also heard recently in the House from the Minister, Deputy Phil Hogan, about the plans in his Department to provide significant matching funding in building fund-raising capacity and establishing a €10 million social innovation fund.

Members will be aware from the Seanad debate last month that the not-for-profit, voluntary and charity sector is operating in a declining public funding environment where the cumulative effect of year-on-year decreases in funding is taking hold. In my community, the arts community, there is growing emphasis on increasing private funding by the Government but an anxiety that this should not replace State investment. It is often the case that State investment leverages private funding. Therefore, the State's commitment is the hygiene factor in encouraging donations.

With the exiting this year of the One Foundation and in 2016 of Atlantic Philanthropies, there is an onus on the State and the not-for-profit community to strengthen the capacity to diversify income streams and look for greater investment from private sources. My business which involves selling tickets for plays is one of the few that asks for money for a product in advance of a person seeing or experiencing it, unlike chocolate. This transaction is based on trust. The patron might not like the play but will trust us to present the highest quality of acting, direction and customer service. The greatest challenge we all have in the not-for-profit sector is providing for trust and transparency. Ireland is unique on the international stage in not having a charity regulator. I know that the vast majority of charities, including the Abbey Theatre, have nothing to hide. Publishing the costs of running a not-for-profit company will only benefit that company, create transparency which, in turn, builds trust. Trust also emerges from producing evidence and facts.

We know that, according to the 2009 report of the Irish non-profit knowledge exchange, the not-for-profit sector in Ireland employs more than 100,000 people across the community, voluntary, sports and cultural sectors. We know that this includes approximately 11,700 organisations, of which 8,000 are registered charities. With a turnover of €5.75 billion, this means that the not-for-profit sector accounts for over 3.25% of national income. However, as we await an update on the progress of the Charities Act, we should be conscious that we do not have relevant, up-to-date, accurate data for giving in Ireland. Implementation of the Charities Act 2009 would provide a stream of reliable evidence on which to build better policy and evaluate outcomes. If it is not possible at this stage to implement the Act, how else can we collect evidence?

One of the current debates in the not-for-profit sector is on the cost of administration and fixed cost with regard to implementing development and fund-raising strategies. Where I might possibly differ with Senator Mary Ann O'Brien - I am not sure about this - is on the question of whether the maxim that one has to spend money to make money is absolutely true. Ms Deirdre Mortell of One Foundation spoke in the Chamber earlier this year about growth capital as the basis for fundraising. We should not be afraid of admitting or hiding the fact that we have overheads and administration costs to help to raise additional revenues. It is a tough environment for philanthropy. While I know this for a fact, I would still take the risk of ensuring growth capital is protected to leverage more capital. I believe also that when the Charities Act is implemented, we will have other interesting data such as for how many Departments are funding the same charity. It would be helpful to have that information to ensure a more holistic approach to fundraising.

I reiterate the call I made in previous debates, that the Ministers, Deputies Phil Hogan and Jimmy Deenihan, come together to share resources in terms of fundraising capacity and so forth. We should not be afraid of evidence or data or the cost in this regard because of itself it will enhance our understanding of the difficult environment in which charities are operating in raising funding. Putting in place a dedicated charities regulator would help to support and enhance public trust and confidence in the sector and allow it to flourish and reach its full potential, particularly in supporting the Government policy on fundraising and philanthropy.

**Senator Colm Burke:** I welcome the Minister. I also welcome the motion on what is an important issue when one takes into account the fact that there are more than 8,000 charities operating in Ireland which employ and benefit many people. They make a huge contribution to society. However, we do not have a regulator. Coming from a legal background and having worked with voluntary organisations for more than 30 years, I have been alarmed, particularly in the past five to six years, by the number of new groups setting up in this sector. I am concerned about the structures in place for small groups in communities registered as charities, many of which lack experience in this area. As recently as this morning, I made contact with Cork County Council about an organisation which was granted charitable status and is not now functioning but holds a valuable asset. We have reached a situation where we cannot even get the board members to meet. When people get involved in this area, they should understand there are responsibilities and obligations. If at all possible, we should set up a proper regulatory structure, but there is also a need to improve the familiarisation and mentoring of people who get involved in this area. All the people on the boards of credit unions are acting on a voluntary basis but they have the opportunity to receive training and experience from people working in the area. With regard to charities, we do not have the same kind of structure in place to give that kind of support. We need to work towards that.

The current problem is that, with the reduced funding available for organisations, a number of them are experiencing increased financial pressure. There are people opting out because they are afraid of the consequences of staying on. It is important that proper structures be put in place to ensure the proper accounting and auditing procedures are adhered to. If a charity ceases to operate, any assets it has should come back to the State authorities. I am concerned about this matter.

It is interesting in respect of charities that when we draw down funding from EU level, there are very strict criteria as to how it should be used. I am not at all sure that we have the same level of accountability under our own structures. We need to examine this.

We need to examine issues that arise in respect of the Companies Registration Office. If a group registers a limited liability company and acquires charitable status three years later, what is the position? I am open to correction in my belief that there is no separate section in the Companies Registration Office to identify clearly all the companies that have charitable status. There should be. This would not take a considerable amount of work within the office.

We need to put in place a proper structure. I welcome this debate and the very constructive way in which it was organised. The sooner we put in place the structures intended in the original legislation, the better. While I acknowledge there are financial constraints, we cannot allow the situation to drift as it is doing. We need to put the structures in place at the earliest possible date. Doing so would have my full support.

**Senator Denis O'Donovan:** I welcome this debate. I thank Senator O'Brien, Senator Mac

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Conghail and the Independent group for making it possible. The Minister will be glad I am not going to throw any barbs at him. I welcome him to the House. I support the Bill and will not crow about the fact that my party brought in the original Bill in 2009. It is still not fully implemented.

I will use a few minutes to explain my knowledge of charities. Some Senators and some in the Visitors' Gallery may have heard of a charity called Féileacán, which is the Irish for "butterfly". I am embarking on a 13-mile walk next Sunday to raise funds for that charity. Today, primarily through Members of this House from all sides, I have gathered the bones of €800. It is very apt, for a couple of reasons. I will tell a little story to outline why. On 4 December last, at the Rotunda Hospital, my daughter-in-law was attending for what we believed was a very minor procedure. When I was entering this Chamber at about 9.15 a.m., I received a telephone call stating her life was in danger and that she was dying. She was pregnant with twin girls. I rushed over to be with her. At that time, the staff in the hospital had to intervene to save her life and, in doing so, she lost her twin girls. This is a true story.

Until that time, I had never heard of the organisation called Féileacán, which is a registered charity. I was totally taken by the support it gave, not only to my daughter-in-law but also to my son, and the way it managed the situation afterwards. My daughter-in-law was in hospital for a number of days because of the threat to her life. I am sincerely grateful to the staff at the hospital for saving my daughter-in-law's life, as are we all. She has another little girl to live for. She asked me whether I would do the walk next Sunday for Féileacán. The walk is known as the Bay Run and is from Glengarriff to Bantry. Unfortunately, because of my physique, age and lack of fitness, I will not be running, but I will certainly be walking.

My story indicates the purpose of charities. I walked earlier this year in the Skibbereen area for a cancer charity. Charities do tremendous work. I support what other speakers said in this regard. There is a small minority of charities that muddy the waters and do damage to the very foundation of Irish hospitality and generosity towards charities.

I acknowledge that the Government is not tabling an amendment to this motion. In some small way, my little story will indicate what charities are. I must confess I had never heard of Féileacán before 4 December last year. I am very glad to be in a position to walk for the charity. My sons, who are obviously a lot younger than me, are running. The walk will be my little gesture towards charities.

What I describe indicates the depth of feeling for various charities. Féileacán is probably not very well known but there are other charities that are very well known and also doing tremendous work. I acknowledge the tremendous generosity of the Irish people. Somebody suggested a turnover of €4 billion. There should be transparency and proper regulation, and I am sure the Minister will ensure this develops during his tenure.

**Minister for Justice and Equality (Deputy Alan Shatter):** I thank those who tabled this motion. It is an important one. As we discuss and debate these issues and travel the road of putting in place what I hope will be a regulatory system, it is right that we ensure transparency in what we are doing.

I am, of course, very familiar with the Jack & Jill Children's Foundation. I met Senator O'Brien's husband, Mr. Jonathan Irwin, before I met her. It was quite a number of years ago. The charity does extraordinary and very difficult work with families who are often traumatised.

It is work of great value.

I was particularly moved to hear Senator O'Donovan's experience. I wish his daughter-in-law well and hope she has recovered from what must have been a dreadful trauma in her life. I confess that I would enjoy seeing him try to run the distance but I know I would not survive beyond 1 km either. We could both have fun in that context. I wish the Senator well over the weekend and hope the rain keeps away.

I felt I should attach some importance to this motion rather than just giving a brief reply. I felt I should say something in detail about charities, our intentions and those engaged in charitable work. Charitable work, as everyone acknowledges, is extremely important across many sectors of society. When one thinks of the many diverse areas in which charities are active, encompassing health and social care, education, youth and community work, environmental and animal welfare protection and arts and culture, to name but a few, it is clear to one that "charitable work" can mean many different things to different people and its value can be realised in many different ways. We have extraordinary diversity in our charitable organisations, ranging from highly professionalised charity companies with multi-million-euro annual turnovers to small local groups made up of volunteers, and everything in between. Some charities rely heavily on public funding and may deliver services on behalf of the State. Others depend on private donations or commercial activities, and many more on combinations of these.

With such diversity of work, size, structure and income sources, one might wonder how meaningful it is to think in terms of a single charity sector at all. However, that would be to ignore the critical common factor that all charities share, the primacy of the charitable purpose or objective. Charities exist to advance the charitable purpose for which they were established and to deliver the public benefit that their charitable purpose entails. This sets them apart from all other forms of enterprise and gives them a unique responsibility and a unique and valued place in the fabric of our economy and society. For the most part, charities discharge this unique responsibility ably and effectively, and meet the high expectations we have of them and they have of themselves with energy, creativity and integrity. I am well aware that charities in Ireland today are facing and overcoming many challenges daily as they adapt to reduced income and increased demand for services. I commend the dedication of the workers and volunteers involved and I welcome those who are present today in the Gallery.

Levels of public trust and confidence in charities in Ireland are consistently found to be high, and rightly so. Trust is essential to charities - the trust both of their donors and volunteers and of their beneficiaries. The public needs to feel sure that the hard-earned money it so generously donates to charities is spent wisely and with care and goes to help those who need it the most. Charities work hard to foster and protect this trust. The public also needs to know that when it donates food, clothing or other items to charities it is distributed or disposed of in a manner that benefits those intended. Of course, no sector of this size is characterised by uninterrupted good practice. As illustrated by the recently broadcast revelations about the charity clothes recycling business, there is always a risk of the public being misled or insufficiently informed. There is also a risk of malpractice or abuse of charitable status through deception, or of others, through criminal activity, benefiting from charitable donations. Unfortunately, when this occurs in one area it can damage trust more widely, leading to adverse impacts on charities that are fully transparent and are run effectively and efficiently and that have, in fact, invested much time and effort in ensuring high standards in their work and accountancy practices.

Recognition that public trust and confidence in charities was a precious commodity that

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needed to be proactively supported and enhanced was, perhaps, the primary motivation for the introduction of the Charities Act, which had all-party support when it was introduced. It was passed with cross-party support in 2009. This Government remains committed to these objectives. The measures contained in the Act to put in place a dedicated system for the regulation of charities are designed to enhance trust and confidence in the sector in a number of ways.

Increased transparency is one important part of the overall approach. In addition to establishing a public register of all charities, the system of regulation will, in time, result in the public availability of an annual activity report for each registered charity. Of course, many charities already publish annual reports and there is much good practice throughout the sector with respect to information disclosure. I encourage all charities to adopt a transparent approach and make available such information as would help potential donors to make informed choices and have confidence that their donations are being used as intended. Such measures, when placed on a statutory footing through the bringing into force of the relevant sections of the Charities Act, will also help to align arrangements for the oversight of the charity sector here with the recommendations of the international Financial Action Task Force. This inter-governmental body has a remit to promote effective measures against money-laundering and terrorist financing and has identified the global non-profit sector as particularly vulnerable to abuse for the financing of terrorism. Putting in place a dedicated charities regulator in line with the requirements of the Charities Act will strengthen the oversight of the sector here in Ireland. Very few people in this State would associate charities with terrorism and the possibility of laundering funds. This is one of the classic illustrative reasons that international bodies engaged in philanthropy also wish to ensure full transparency.

It was particularly disappointing to learn in the House this afternoon that there are charities in the State which had the possibility of being funded through international philanthropy but which, as a consequence of their poor accountancy practices, were unable to receive the funding that was on offer. Ultimately, it is not funding simply for the charity but for the individuals on whose behalf the charity is working. Bad practices in the areas of accountancy and transparency mean there is less available for those who are in need and whom the charity was created to assist.

Increased transparency is just one, albeit very important, element of the regulatory framework provided for under the Charities Act. The charities regulatory authority to be established will have a range of functions and powers that will facilitate the development over time of a comprehensive and balanced system of regulation. In addition to the initial task of developing and maintaining a register of charities, these will include advisory, monitoring, investigative and enforcement functions, as well as the granting of charitable status to eligible organisations. This system of regulation will be new to all of us. It is important that charities are supported in meeting their new obligations under the Charities Act when they come into force and that the regulatory requirements are applied across the sector in a manner that is proportionate and sensitive to the different situations of different charities. By maintaining the consultative approach that we have adopted throughout this process, I am confident that this can be achieved.

Notwithstanding this clear rationale for proceeding with the implementation of the Act, it is also important to remind the House that there is already in existence a broad range of regulatory oversight measures that can apply to charities. Many charities are already subject to scrutiny by various State bodies in cases in which they receive State funding. Many charities receive significant levels of Government funding through grants, contracts for service delivery and so forth. As regards how they use and account for these public funds, these charities are subject to

the oversight of the relevant grant-making or contracting Departments and agencies and, where appropriate, the Office of the Comptroller and Auditor General. The Revenue Commissioners have granted charitable tax exemptions to almost 8,000 charities and have significant powers to ensure that such charities comply with tax law. A full list of these charities is available to the public on the Revenue Commissioners website. Many charities are companies limited by guarantee, as was mentioned by Senator Colm Burke, and, as such, are also subject to the provisions of company law and are generally required to provide certain information to the Companies Registration Office under the Companies Acts. This information can be accessed by the public. Such charities would also potentially be subject to scrutiny by the Office of the Director of Corporate Enforcement. Charities that take the form of a trust are subject to the provisions of trust law. Of course, any business entity is subject to general criminal and fraud legislation.

While the Government remains committed to progressing the implementation of the Charities Act and the dedicated regulatory framework that it will usher in for charities, it is also important to recognise that the charities sector is at present far from unregulated. To suggest it is would be misleading and would fail to acknowledge the value of the effort invested by many charities in meeting existing regulatory obligations.

Turning again to the new requirements that will come into force under the Charities Act, clearly the development of such a system of regulation will have resource implications. This has created an additional and significant challenge to the further implementation of the Charities Act at this time. As this House will be aware, following the transfer of responsibility for this legislation to my Department in mid-2011, I decided to defer further implementation of the Act and explore possible alternatives and low-cost variations on the course of action that had been designed before the economic downturn. Without prejudice to the issue of resources, Government policy with regard to the regulation of the charitable sector remains aligned with the provisions of the Act. With this in mind, my Department is now working to develop proposals for bringing key provisions of the Act into force on a phased and low-cost basis.

I will take this opportunity to say a little about what we have done so far and how we envisage the next steps. In January last, I published for consultation outline proposals for implementing key provisions of the Charities Act. Stakeholder consultation has been a strong characteristic of this policy area for many years and we are fortunate to have an informed and engaged stakeholder community. Delays in the implementation of the Act had understandably led to some frustration on the part of active stakeholders and some frustration on my part as well. It was entirely due to the reduction in the resources available to my Department. It has perhaps led to some confusion in the charities sector and among the public on the position on charities regulation as well. I took the view it was important to consult with stakeholders on the approach now being considered to communicate clearly our intentions and to ensure that the implementation process is informed by the views and concerns of engaged stakeholders.

The consultation document invited views from stakeholders and members of the public on proposals for the establishment of a charities regulatory authority on a phased and low-cost basis. Views were also sought on issues connected with the creation of a statutory register of charities, including a proposal that some of the costs to the Exchequer of establishing and maintaining this register would be offset through the application of a modest annual registration fee to be set at a level proportionate to the income level of each registered charity. The consultation also invited views on the form and content of annual reports to be made by registered charities to the new authority. As these reports are to be made public by the authority for all publicly-funded charities, this is perhaps the key mechanism through which the transparency of the sec-

tor can truly be enhanced.

I was pleased with the response to the consultation. Some 160 written submissions were received and they are currently being reviewed in my Department. Following the consultation, we are also developing more detailed proposals for the establishment of a charities regulatory authority, including with respect to resourcing and a timeframe for implementation. This work is informed by the submissions received in the context of the consultation process. Once this work is complete, I hope to bring the proposals to Government, following which the consultation submissions will be published by my Department where consent has been given by the author - it is given in the majority of cases. At that time, I also hope to be able to give a firm indication of the process and timeframe for the establishment of the charities regulatory authority.

While this evening's debate is primarily focused on statutory provisions, I take this opportunity to remind the House of the important part that complementary voluntary approaches can play in enhancing public trust and confidence in the charitable sector. We should recall that the responsibility for enhancing the transparency and accountability rests primarily with charities. Voluntary, sector-driven approaches to better practice are an essential part of a strong and accountable charity sector. Statutory regulation is simply a complement to this, not an alternative. As progress is made on the implementation of the Act, so the Government also hopes to see a continued drive from within the sector for improvements in transparency and accountability where necessary.

As noted earlier, a particular issue in this regard was highlighted by the recently-broadcast investigation on charity clothes recycling. I imagine many Senators share my concern at the finding that allegedly, in certain cases, a small proportion of the potential income derived from clothing banks appeared to reach the charitable cause with which the bank was identified or associated. As Minister for Justice and Equality, I am keen to see greater transparency in agreements between charities and companies that own clothes recycling bins in order that the donor public know exactly what is happening with their donations and how much of what they donate is actually being used for the benefit of those whom the charity has been established to help. Of course the bringing into force of the reporting provisions of the Charities Act will support increased transparency. Anyway, donors should not have to wait for statutory regulation before charities tell them what is happening to their donations. Where charities are working together with the private sector in any shape or form and where there is a sharing of moneys as a result of particular activities between the charity and a business with which it is in partnership, it is important to have maximum transparency with regard to the arrangements in place. This gives public confidence to the work the charity is doing and some assurance that the majority of funds raised are truly benefiting those for whom they are donated. It is in the interests of the charities to be upfront about this and I hope we will see genuine leadership from the charities sector on this issue following the recent revelations.

I congratulate those in "Prime Time" and RTE for their careful investigative work in revealing and bringing to public attention the activities of an organised crime gang targeting clothing banks. Burglary, theft and all types of criminal activity are, of course, to be condemned, but there is something particularly nasty and callous in the actions of those who steal, for their own benefit, charitable donations intended to help those in genuine need. I have asked the Garda Commissioner for a report on the activities of gangs involved in this particularly cynical and despicable type of criminality and the action that can be taken to bring them to justice.

**Senator Martin Conway:** Well said.

**Deputy Alan Shatter:** Fundraising is another area in which sector-driven efforts to spread best practice can play an important part and the Government continues to support certain initiatives in this area, including the development and promotion of a statement of guiding principles for charitable fundraising that has been developed by the charities sector under the leadership of the voluntary charity umbrella body Irish Charities Tax Research. These guiding principles, at the core of which are respect, honesty and openness, aim to provide a set of agreed and accessible standards to charitable fundraising strategies and projects. My Department is providing grant support for this initiative. I have encouraged all charities to sign up and adhere to these principles, which represent a simple yet demonstrable commitment on the part of charities to better accountability and transparency. To date, although I have been pleased to see that sign-up by charities to the principles has been growing in recent months, unfortunately thus far only a relatively small number of charities have formally committed themselves to the principles and this is a matter of concern. Although there have been some additional commitments in recent months I see no reason the overwhelming majority of charities, if not all, should not make such a commitment. My Department continues to support this initiative with the aim of increasing the share of fundraising that conforms to these principles but such an initiative requires the support and participation of charities which are engaged in fundraising to be meaningful and I urge all charities that carry out fundraising to commit publicly to these best practice principles.

The motion before the House notes the link between effective regulation of the charities sector and the objectives of the forthcoming national giving campaign, which is one of several initiatives of the Forum for Philanthropy and Fundraising. Through this forum, Government is working with major philanthropic organisations and other stakeholders to unlock the potential of philanthropic giving in Ireland by creating a favourable environment for individual and corporate giving and developing fundraising capacity. The forum was reconvened in 2011 by my colleague, Deputy Phil Hogan, Minister for the Environment, Community and Local Government, and reported in May 2012. One of the recommendations of the forum was to create a national giving campaign aimed at increasing private giving, in particular planned giving, by 10% each year to 2016. It also aims to raise awareness and understanding of the value of philanthropy and planned giving among all sections of Irish society, including high net worth individuals, the corporate sector and the general public, by demonstrating how charitable and philanthropic giving benefits communities throughout the State. A thriving philanthropic and fundraising sector benefits greatly from the availability of readily accessible, good quality information on the non-profit organisations that it supports. Information on the income and activities of charities enables progress and developments within the field to be tracked and understood over time and useful international comparisons to be made. The gradual implementation of the Charities Act and in particular the measures relating to the compilation and publication of certain information on charities will contribute to this. In this way, progress on the implementation of the Act represents an important part of our efforts to create a favourable environment for philanthropy. The giving campaign will be launched later this year and it is envisaged that charities will be encouraged to launch their own campaigns under the umbrella of the national campaign.

I wish to note in particular the work of Senator Mary Ann O'Brien in this area. Senator O'Brien's paper on the implementation of the Charities Act that was published in February during the period of consultation conducted by my Department is a timely, constructive and helpful contribution to our discussion on this matter and to realising our goals. The current situation demands that we approach the task before us with creativity, flexibility and pragmatism and that our actions are informed and underpinned by continuous engagement with the charities sector and those who have a stake in it. Ongoing engagement is crucial in this regard. The active

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engagement of informed stakeholders such as Senator O'Brien will be critical to our efforts as we seek to put in place on a phased basis a dedicated system for the regulation of charities. That was a particular issue raised by Senator O'Brien in her contribution. I agree entirely with her that there should be standard accounting practices for charities so there is a clear and understandable format and a clear provision of relevant and comprehensive information in a transparent way that the public understands.

Before closing, I would like to return briefly to the core issue before us, namely, the role played by charities in our society and how we can best support them in it. Charities, by definition, benefit communities through their work, and for this they are indeed worthy of our commendation and thanks, as expressed in tonight's motion. The provisions of the Charities Act are intended to help them to deliver this benefit with transparency, integrity and efficiency. This in turn can help the trust we have in our charities to grow and thrive so that we can contribute to them with confidence. It is in all our interests to have a strong and vibrant charity sector and I look forward to advancing the regulation of the sector in line with this overall objective. I welcome the support on all sides for the motion before the House and as Minister for Justice and Equality I have the greatest pleasure in expressing my full support for its content.

**Senator Katherine Zappone:** I welcome the Minister to the House. I will begin where he concluded by commending my colleague, Senator O'Brien, for the extraordinary work she has done since she was appointed and her passion for this area. I also thank those who worked with her so ably and many of the great representatives of the sector, who are in the Gallery, and those who have worked and continue to work hard to support the sector and our work in trying to get movement on these issues.

Every once in a while I whispered to my colleagues in the Chamber as the Minister gave his speech. It was a great, fulsome, thoughtful, comprehensive and heartening speech. I hope it was heartening for those who have participated in the sector and those who continue to do so. The speech contained a lot of information. I assure him that I and others in the sector will quote it and take it as a heartening response to what we are discussing, namely, his efforts to define charity and the consultative process. He will bring forward proposals on the provisions to implement the Act on a phased and low-cost basis.

He went beyond the issues we are discussing in his conclusion, in terms of voluntary measures. I thank him, and congratulate him and those who support him. The speech and the willingness of the Minister to engage with us in that way is a great and ongoing response to the motion tabled by our group, led by Senator Mac Conghail, on having a national debate on the current context of the not-for-profit sector.

I am sure many people looked closely at the motion, in particular our last bullet point. Some might have said we did not set the bar too high because we mentioned we looked forward to the publication of the outcome of the Minister's consultation, and further information regarding his timeframe for introducing the charities regulator and the full implementation of the Act. We are reasonable people and expected a reasonable response, and we got one. We set the bar just right.

The Minister indicated to us his awareness that this is a win-win situation for him, his Department and the Government, in terms of what we sought. There are costs, as he indicated. He mentioned the establishment of the regulator and the implementation of the Charities Act, and that he needed to investigate that. He also referred to doing things at a low cost, with which

I agree. If the costs are low the benefits can be high. There are benefits to philanthropy. In our earlier motion and the Seanad Public Consultation Committee which examined social entrepreneurship, we found there are major benefits to the establishment and implementation of the Act because it encourages the development of the philanthropic sector, something we need desperately.

There are significant benefits for charities in continuing to partner with the public sector and, as the Minister, my colleagues and others have said, that increases confidence in the sector, something which is needed. We should move forward with great urgency to do the work he laid out.

The Minister is a man with great ambition. I have noticed and complimented him on much of the legislation he introduced. The Government has also introduced a lot of legislation within a very short time. I refer to personal insolvency, governance, regulating the banks, dissolving the IBRC and the referendum on the fiscal stability treaty. Much legislation refers to the economic arena. The Charities Act concerns the social arena. As we have said, if one moves with urgency in the social arena it is of benefit to the economic arena, and he has a sense of that.

The motion urges speed. I welcome the consultative approach of the Minister. I do not think it is a smokescreen for slowing things down. I heard how he will move forward. He has had consultation, which was a great opportunity for Senator O'Brien to outline a great piece of research, and many colleagues fed into the process.

In the 30 years I have lived in this country I have established two charities, worked as a CEO for a non-profit organisations and raised millions of euro. If the Minister wants people like me and our philanthropic colleagues to keep going, he should give us a lift. He is doing that and we await with hope and great expectations his forthcoming invitation.

**Senator John Whelan:** I welcome the Minister to the House and commend him. On the first day of summer there is a great deal of warmth in the room and I would like to continue in that vein. The Minister has embraced the motion, not just in letter but in spirit. I also commend my colleagues in the Independent Group. Senator O'Brien has championed the issue, with other colleagues in the Independent Group. To an extent, we are all singing from the same hymn sheet. I do not think anyone doubts the bona fides and good intent of the Minister. It is great to see cross-party support for what is at stake.

Before we get carried away, it should be noted the Charities Act was passed by Parliament in 2009. The words I live in dread of in the Chamber are "shortly", "imminently" and "soon", but I am not saying that applies in this case. One never knows what timeframe is involved. On 19 September 2012, I introduced a similar motion calling for the full implementation of the Charities Act and for the appointment and establishment of the office of the regulator.

*5 o'clock*

To be fair, at that time it received wholehearted, warm, cross-party support, but that was nine months ago. Albeit that there has been consultation since, and that is important, at that time there was some nervousness about it. Nobody at any stage is casting aspersions or doubts on the integrity and honesty of the 8,000 charities that have access to €4 billion in State funding and an estimated additional €4 billion in charitable donations and contributions, which is more than half the budget of the Department of Health. We know the scrutiny that is required to ensure the taxpayer and communities get value for money and that the money is going where

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it is most needed, to the client at the coalface.

As Senator Donovan pointed out in his moving contribution, everybody in the room has their favourite charities and work. We can only commend the work of the Irish Cancer Society, the Irish Hospice Foundation, the Irish Wheelchair Association and the myriad suicide support groups in the current climate around the country. This morning coming to work I saw the life-boat volunteers out with their May Day collection. I thought it was very clever word play and very appropriate. If anyone is going home this sunny evening they should keep the collectors in mind. I am sure they are out and about.

The charity sector relies on its credibility and reputation. By and large we are very lucky in this country to have such commendable people. It is a vibrant, robust and vigorous sector, and without that voluntary charitable sector there would be a horrendous void in Irish society that the State could not meet or match. We would be left stranded in so many areas. Therefore, it is vital that the important but limited funding available is being put to best use. Let us not cod ourselves. There are unscrupulous people out there, present company excluded. Those who have put their best foot forward are clamouring for the implementation of the Act. They have been imploring the Government to get on with it. Charities here have been embracing the consultation process. We can no longer say there is a cost or a structural impediment that prevents us getting on with it. Too much is at stake, not only the money but the valuable work.

We have seen time and again that there are those who will take advantage when advantage is there to be taken. They will exploit any gaps and loopholes. There are cases of excessive commission, where the money is being stripped out and is not going to the people for whom it is intended. There are charities that are not transparent in their actions, payment systems and processes. It is hard to believe that they are even ripping off the clothing banks. This is something a charity regulatory office would bring to an end. We should have a league table of best practice so people would know the charities that are behaving and conforming to best practice and those that are putting the money to best use. We have a certain amount of duplication and overlap in the sector. That is not good for anyone, certainly not for the children and those in need of diminishing resources.

I commend the Minister of State, Deputy Jan O'Sullivan, and welcome her to the House to continue the discussion. I commend her for taking the implementation of the Charities Act in a gradual fashion so far, but we are four years down the line. The Labour Party group brought forward a similar motion. I commend the Independent Group which not only brought forward the problems or challenges but came up with solutions, which is to be commended. Our motion dates back nine months and I would like to see the consultation brought to a successful conclusion and us to move robustly and promptly into the implementation phase.

**Senator Feargal Quinn:** The Minister of State, Deputy Jan O'Sullivan, is very welcome. It is a very good day for the Seanad when Senator Mary Ann O'Brien and the Independent Group put down a motion to which the Minister responds. We are so used to motions coming in here and the Government putting in an amendment disagreeing entirely with it. It is delightful to see this and I congratulate the Independent Group and Senator Mary Ann O'Brien for doing this. One of the frustrations we have in everything we do here is the length of time it takes to get things done. Senator Whelan touched on the fact that it was in 2009 that the Charities Act was passed here, and yet we have not really got around to doing what needs to be done. We can and should do it immediately. The Minister's heart is in the right place so I am sure it will happen this time, but let us ensure it happens with speed.

I am glad to contribute to this motion and I will briefly mention a topic relating to the more efficient regulation of the not-for-profit sector with regard to philanthropy, fund-raising, sponsorship and private giving in Ireland. By doing so we could really increase the amount of revenue charities can raise. I also agree we should put in place a charities regulator. I am delighted to see the Minister intends to move on that but it is taking a long time. The fact that Ireland is almost unique in that it does not have a regulator for charities is indicative of the work the Seanad can do. We can draw attention to such areas. A charity register is also a good idea. I like the description on the UK Charities Commission website which states:

The (UK) register of charities shows key facts about the work and finances of every charity. You can see at a glance whether a charity is up-to-date with its reports and its accounts.

That information is good for the customer, and by customer I mean those who contribute to the charity as well as those who receive from the charity. We need a similar system here. Transparency in charities can help increase much-needed revenue that has been falling, particularly since the crisis.

Given that the State gives so much money to these charities there needs to be much more impetus on the side of Government Departments to audit the accounts of charities. This would also look at charities from a business-oriented perspective to analyse their efficiency in reaching their targets. We need to know the impact - it is a great word - of a charity's work. We need to look at a charity's work more like the way we look at a business in the private sector and how a business would measure itself. At the same time, the private sector and the non-profit sector can also play a role in making charities more transparent and efficient.

The situation in other countries is very much worth noting and the Internet is also widely used to better inform the consumer, meaning those who contribute to the charity as well as those who receive from it. In the US there are websites such as the one by the non-profit organization, Charity Navigator. It is a very interesting website which evaluates US charities, rating them on a zero to four scale. Could we have a similar system operating here? It really provides an in-depth analysis to the customer - the person who is donating. This kind of charity rating is very worthwhile.

In terms of overall salaries - and we have touched on this a little here - of CEOs of charities, there is more murkiness. In particular, there was a report last year that four charities that share millions of euro in State funding every year have refused to reveal how much their chief executives are paid. While more transparency will hopefully mean more donations in the long term, some charities simply have to get away from the murkiness that surrounds them. It is in their own interests to do it. The press, others and we here can help by spotlighting those charities.

I would also briefly like to mention the topic of crowd-funding related to charities. Linked Finance, an organisation in which I must state my involvement, aims to crowd fund SMEs and larger businesses. There are other charity crowd-funding websites in Ireland. This is the future but I think the Government needs perhaps to examine the area more to ensure the right conditions are being set, in that consumers have the knowledge and confidence to invest in certain worthy projects. By introducing some safeguards, the Government can allow the sector to grow which is what it should be doing. Unfortunately, and to generalise, sometimes older politicians overlook such developments, as it is in their nature, but I guarantee legislation will be introduced on this matter, as has been done in the US and the UK already. I hope we do not do it five

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or ten years late and then pat ourselves on the back. As much as many Senators and Deputies would not like to hear this, we could do a lot worse than following UK legislation much more closely instead of pretending we were the first to do something. The opposite is often true. Consider the fact that the US passed the Jumpstart Our Business Startups Act 2012, known as the JOBS Act, last year, which made equity-based crowd funding legal. Its effect was to ease entrepreneurs' access to capital via the Internet. The US believes this could raise hundreds of millions of dollars and create thousands of businesses. What if we were to do something similar in Ireland? This would be an example of community ownership.

I have raised previously the example of *DonorsChoose.org*, a website that allows people to give to projects in American schools. We recognise the significant amount of philanthropy that takes place in America because they have made it easy to do so. However, we have made it difficult here in recent times. We must take steps now to encourage more philanthropy.

I am delighted this motion was tabled and even more delighted that it was responded to by the Minister. I wish the Independent Group and Senator Mary Ann O'Brien every success in this area. I believe the Minister will respond to the motion and I urge that this happen immediately.

**Senator Eamonn Coghlan:** The Minister of State is welcome to the House. In my sport, they would say she is taking up the baton for the Minister for Justice and Equality, Deputy Shatter. I commend Senator Mary Ann O'Brien on this motion, as it is most important to keep pressure on the Government to fully implement the Charities Act 2009.

I have spent 30 years working with the Children's Medical and Research Foundation in Our Lady's Children's Hospital, Crumlin, first as a volunteer when I lived in the United States and then, on my return to Ireland in 1990, as a marketing and communications executive. In the latter decade of my professional working life there, I was director of fundraising and development. Many people used to think I just lent my pretty face - or celebrity status, if one wishes to call it that - towards raising funds for Crumlin. I was in fact there in a professional capacity, working on the front line with many thousands of volunteers.

**Senator Martin Conway:** The Senator is much more than a pretty face.

**Senator Eamonn Coghlan:** As the Minister said, he met Mr. Jonathan Irwin long before he met Senator Mary Ann O'Brien. I met Mr. Irwin when he came to Crumlin when young Jack was a patient there and was appalled by the services available then. Fair play to Mr. Irwin for establishing the Jack & Jill Foundation afterwards.

Having worked with thousands of volunteers raising funds through golf matches, cycling events, marathons and triathlons in the corporate sector and through schools and community groups, I know we spent a lot of time policing what was happening in the area. People would come to us proposing that they sell clothes in the name of Crumlin hospital. We even had a company propose selling tyres while using the name of the hospital as a benefit to itself. We found that only 10% of the funds raised in parachute jumps were going to the charity. We had to get rid of those organising it and tell them they were not welcome. We even had farmers with a fund-raising idea of splitting up a field into a grid and running a sweep on guessing where the cow's call of nature would land. One can guess where we told them to go.

It is not the staff in our fundraising office who get the credit but the volunteers. It was the volunteers who built the new medical tower at the hospital for €15 million. It was the vol-

unteers who provided life-saving equipment for the children. To this day, it is the volunteers who support the world-renowned research that goes on at the research centre. Up to 120,000 children go through the hospital every year. While we wait for the new paediatric hospital to be built, which will probably take 20 years, we still need to fix Crumlin. Accordingly, we badly need the support of the voluntary sector to do that.

The Charities Act was signed into law in 2009 but it has not yet been enacted and only some sections have commenced. This is a shame, as the debate on this sector has been going on for ten years. We have heard that up to 7,000 charities are registered. From my information, however, there are 17,000 charities operating. It is becoming exceptionally difficult to control the well-intentioned individuals and groups who want to raise funds. They feel they can just set up shop and go about raising funds without any rules, regulations or guidelines.

The Children's Medical and Research Foundation in Crumlin is the leading charity in Ireland. First, everyone knows its brand. There is not a family or a household who do not know some child who has attended the hospital. Second, it has implemented corporate governance and compliance for 40 years. As Senator Mac Conghail and the Minister stated, people trust the charity work done by Crumlin. The strong board and leadership, with volunteer businessmen and women from industry and the medical field, ensure that everything is transparent and in order.

I welcome the first corporate governance code for community, voluntary and charitable organisations, launched last June by the Ombudsman, Ms Emily O'Reilly. However, it is not mandatory and it is disappointing to note that not many organisations have adopted it to date. At the launch, Ms O'Reilly stated: "Good governance is not some sort of mildly irritating optional extra in the conduct of our public affairs but is rather the pivot around which everything turns and which ultimately determines the success or failure of our enterprises." This includes charitable organisations. Unfortunately, it is the fly-by-night organisations, the bogus individuals purportedly collecting for good causes which bring down the reputation and good name of genuine charitable organisations, damaging the trust enjoyed by them. This can be only be stopped by establishing the charities regulatory authority. It was indicated earlier that lack of funding is the main reason it has not yet been set up. We cannot use this as an excuse. The authority must be up and running soon. While the Minister said it will be in time, time is running out. We owe it to the volunteers, donors and beneficiaries to have this sector regulated.

**Senator Labhrás Ó Murchú:** I welcome this motion from the Independent Senators. I compliment Senator Mary Ann O'Brien on her research and diligence in this regard. If that diligence had not been applied, this matter would not have been addressed with any sense of urgency. That is a sad commentary on ourselves as legislators. I cannot think of any motion that is more important for debate in this House than this one. We are speaking on behalf of people who have not been given the same opportunities in life as we have. But for the charities that exist, the responsibility would fall back on the State. It would be the role of the State to look after its citizens. The charities fill that role, often with a huge voluntary input. This is not just about money; it is also about providing a voice for these people when different pieces of legislation come up in the Oireachtas. People must always come forward and make cases for people who are more vulnerable than ourselves. This is an important role, particularly for us as legislators. However, the responsibility rests on the State.

We know that even in the best of times the State would not fulfil that role fully, and there is very little chance at present, with the economic climate that exists, that the State could have

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any intention whatsoever of fulfilling that role. The charities sector is vital to the welfare of thousands of people and we need it operating to the fullest capacity and with the fullest trust and confidence of the people who support the charities. The sector must be protected. I recall the sense of urgency that existed when the Charities Act was enacted in 2009. Everybody realised it was needed, but perhaps it came about because of newspaper headlines. Often the headlines do not represent in the fullest way what the charity sector is about, but because those headlines appeared in the newspapers, it was felt we had to take action. It should not have been necessary to wait for something of that kind to initiate action.

Everybody knew for years that proper regulation of the charities sector was necessary. It was evident to people in the street, particularly where money was changing hands in a manner that was not receipted and was collected by people we did not know. Take the clothing industry as an example. When people are asked to give their clothes to a particular organisation, they still do not know whether this will bring a financial gain for that organisation or whether the moneys received go to a charity. This is just one small example of the confusion that still exists. When people contribute money on the street outside a bank or a shop, some little alarm bell always sounds in their heads with regard to whether that money ends up in the right place. This is only a small element of the total picture.

The one way to ensure that nothing untoward happened was through regulation. We have a comprehensive Act now and it covers all the issues in significant detail. In addition, it covers what would strengthen the charities sector and help the legitimate part of that sector. This is itemised step by step in the Act. People were given the opportunity, through debate, to feed in their experiences and their practical understanding of what was involved. They were also able to include their vision for the charities sector. We can imagine how they must feel now we are told, four years later, that one of the reasons the provisions have not been implemented is their cost. This is sad, because the idea behind the concept was to save money and ensure the moneys available from generous-hearted people are available to help others for whom the State has responsibility. That is the logic of what we are saying.

It is wrong and unfair that the Act has not been implemented. I would be first to stand up and defend the Government with regard to many of the austerity measures it must take, because we must be realistic. However, in this case, austerity is self-defeating. For that reason, I hope the Minister and Minister of State will avail of this opportunity to bring the message to the Government that we still hope this regulation will not have to wait and that the benefits of bringing in the regulation and implementing the Act far outweigh what might be saved.

**Senator Jillian van Turnhout:** We are having a very good debate on this and we could say we are all in agreement and that the word on this is “consensus”. However, knowing Senator O’Brien as I do, I feel she would like the word to be “urgency” and to feel we are bringing an entrepreneurial spirit to this motion. It is good that we have consensus, but is that good enough? It is not, and that is the reason Senator O’Brien has used precious Private Members’ time to raise this issue. There was consensus among our group that this was such an important issue that we should try to nudge and drive the process further along. I acknowledge the work Senator Mary Ann O’Brien has done to champion the issue of the implementation of the Charities Act.

As a volunteer with the Girl Guides and having been chief executive of the Children’s Rights Alliance, I speak from personal experience of the charities sector. I was working with the alliance coming up to the Charities Act and during the debate on the Bill on what needed to be done. We had to consider whether our organisation would be prepared and ready for that Act.

Our organisation and many others prepared themselves and worked to ensure they reached the highest standards. We double-checked everything we did and examined our financial reporting and so on. However, the issue is that we still do not quite know what the implementation of the Charities Act will mean for financial reporting. Therefore, we look to the UK to see its models of good practice and the accounting standards used there. When it comes to compliance, charities here are working in a vacuum with regard to the standard that will apply here. How can they say they are reaching the best standard when there are potentially different ways in which the Act will be implemented? However, we want to ensure we are fully compliant.

With regard to donations received, we do not know how these are to be declared. The public want to know this, but the organisations want to know also, so they can ensure they have the required systems in place. Every organisation produces an annual report and in our role as Senators we receive quite a number of annual reports. However, often, when I look at the annual reports of well-known charities, I notice they do not necessarily report against the objectives of their organisation. We get reports of activities and of what they are doing, but the Charities Act talks about the objectives of the organisation. Therefore, reports should be written against those objectives.

We have all cited good examples of charities, but we must be careful that we do not confuse charities with the not-for-profit sector. Sometimes, the same organisation can be both a charity and a not-for-profit organisation. However, some organisations have chosen to work as limited companies in the not-for-profit sector. What we are talking about today is the “charity” brand and what that means. We know some charities will adopt the regulations early, and nobody has a difficulty with that. However, in the next wave of organisations to be looked at by the regulator, how will the public know which organisations are fulfilling the Charities Act and which are not?

Senator Ó Murchú spoke about people collecting outside shops or banks. I have sometimes looked at the names of the organisations collecting in that manner and have never heard of them previously. I wonder then how I can know if the collector is collecting money legitimately or whether the money collected will go to the charity. I would like to know that 100% of the money collected in such bucket collections goes to the charity. I want to know when I give my money that it will all go to the charity, not that just 10% will go to it. There is an issue with regard to public trust and confidence in the brand or charity. That is about fundraising, but it is also about getting volunteers involved with an organisation. We need to look at the resources a charity has to hand. Those who will be supporters in many ways would support and help organisations, but they need to know that it is correct.

We have given examples of where organisations apply good practice and the difficulty is how one compares them. Unless we have a standard formula for how organisations report and show their financial information, both expenditure and income, how will we be able to compare organisations and the level of funding? This is a bigger question for the State. It astounds me that Departments, when allocating funding, have no idea what other Departments give funding to an organisation. Other than going to the Companies Office and requesting the organisation’s accounts, it is often difficult for them to know. Even if one wants to look at the good use of public money, that would be an issue.

I fully support the motion from our group which is being led by Senator Mary Ann O’Brien. As I said, she is an entrepreneur and knows all about branding. For me, this is one of the reasons we need to ensure the charity name stands for something. We have heard too many stories,

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even in recent weeks, where that brand has been damaged. We need to ensure there is clarity about the implications of the Charities Act and when it is being implemented. We all want to see an operational charities regulator. As I said, I would prefer it if the word “urgency” was included, with “consensus”, in the motion.

**Senator Martin Conway:** I welcome the Minister of State, Deputy Jan O’Sullivan, who is witnessing a very interesting and stimulating debate. In fact, I would not call it a debate but a discussion. In many ways, it is a pity the Minister for Justice and Equality, Deputy Alan Shatter, could not find the two hours in his schedule to listen to all of the contributions because those speaking in this House speak with enormous credibility on this issue. I look across at Senator Labhrás Ó Murchú and consider the voluntary work he has done for 40 years, as well as the very valuable work Senator John Crown is doing with his cancer research charity. Of course, Senators Jillian van Turnhout, Katherine Zappone and Mary Ann O’Brien also bring a wealth of experience to voluntary and charitable work. The House has enormous credibility in this regard.

Like many others, I was very troubled by what I saw on the “Prime Time Investigates” programme on the systematic raiding of charity clothes bins throughout the country. One criminal gang is making serious money and in one seven day period robbed 800 clothes bins and exported multiple 40 ft. container loads of clothes. In donating their clothes people sincerely believe they are going to help the underprivileged. Many of the clothes donated could have remained within their families, but they felt the right thing to do was to donate them because of the added value they brought to charities.

I commend the previous Government for the 2009 Charities Act. At the time it was going through the Houses, I remember following it with great interest because it was badly needed. We all see church gate collections and even that old concept is one I believe needs to be tightened, as do other bucket collections. When one sees the name and number of a charity, one should be able to check with ease whether it is bona fide without this being cumbersome or difficult. The pending introduction of the register of charities is overdue and I agree with Senator Labhrás Ó Murchú that it will save money in the long run. It will save the money of hard-pressed citizens who are contributing money that, in many cases, they could do with keeping themselves but, because of the generous nature of the society in which we live, they instead donate to people they believe are in greater need. There is a need for accountability and transparency, particularly as we are a modern society which considers it does its business in an up-front and appropriate way.

If one was to try to compare the charity world in terms of the absolute accountability rightly expected in the world of politics, unfortunately, one does not mirror the other. There is much greater accountability and transparency in politics than within the charities sector. This time last year the HSE requested that charities which it was co-funding declare the bonuses paid to their chief executives, but they refused to do so because the bonuses were paid from charitable contributions. However, the money is still coming from the same people - the people of Ireland - whether by way of taxes or charitable contributions. I firmly believe we need far more transparent accounting within the charities structure. What the chief executives of registered charities are being paid in salaries, bonuses, expenses, pension contributions and perks should be freely available information. It is expected in public bodies and politics and should also be expected in charities. These are not private individuals, corporations or sole traders. They are *de facto* public servants because they are being funded by the public. It makes absolute sense that this should happen.

To be frank, it is regrettable that vast swathes of the Charities Act have not been implemented to date. I commend the Minister's bona fides in coming into the House and not opposing what I consider to be a very impressive motion. However, we need a timeframe. I welcome the commitments made. I do not believe resources are really an issue because this will save money and, therefore, it is an investment - it is giving with one hand and getting back from two. We are a generous nation and, per head of population, probably give more than people in any other country. I point to the many missionaries from this country who have gone abroad for many decades and the tireless and very generous contribution they have made to the Third World, as well as the many millions of euro sent from this country to the Third World. The people of Ireland would certainly regard it as money well spent if the various elements of the Charities Act were implemented.

I genuinely salute the great voluntary and charitable efforts being made by the various Members of the House. They do it proud in what they do.

**Senator David Cullinane:** I commend Senator Mary Ann O'Brien and the Independent Senators for again tabling a motion on this issue. It is only a short number of weeks since we had a similar debate in the House. The Senators who tabled the motion might recall that at the time my party and I tabled an amendment to their substantive motion. At their urging, we decided not to press the amendment because I understood the logic of what they were trying to do, which was to get the Government over the line on a specific issue in the implementation of the Charities Act. That was very laudable, but I have to restate the premise of our amendment, on which Senator Labhrás Ó Murchú touched somewhat in regard to the obligations of the State. The State has an obligation to make sure the basic needs of citizens are met and that people are cared for from the cradle to the grave. Putting food on the table, making sure children are properly clothed and that people have enough income, for example, to heat their homes and keep them running, pay utility and other bills and gain access to education are basic requirements that should be met. The reality is that many of the austerity policies put in place by this and the previous Government which primarily impact on the most vulnerable in society and low income families will result in more and more families and individuals depending on charities to put food on the table and heating oil in their tanks, send their children to school, put clothes on the backs of their children and even pay their mortgages and basic utility bills. That is the reality for any of us dealing with people on a daily basis in our communities. We know that is a fact. When they come into our offices and clinics, they are increasingly saying they are going to charities such as the Society of St. Vincent de Paul or the Simon Community. Unfortunately, more and more people are depending on charities because the State is failing to meet their requirements. It would be remiss of me, as somebody who gladly represents people who are being left behind, not to make that point.

I appreciate the sentiments expressed in the motion and the logic of what the Independent Senators are trying to do. I also fully support implementation of the Charities Act. The motion references the report drafted by Senator Mary Ann O'Brien. I have read it a number of times because it is an excellent report and the Senator has done the House a service by drafting it. I have found it to be excellent and of very high quality. In the foreword she says we need to sit back and reflect on how so many Irish charities prop up the State in the provision of vital services in areas in which the State has been found wanting. That is essentially the point we were making in the previous amendment and I concur entirely.

I have long supported the need to ensure charities are well regulated and very much welcome the 2009 Act and commend the previous Government for introducing it. Deputies Jona-

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than O'Brien and Pádraig Mac Lochlainn, the Sinn Féin spokespersons on this issue, on several occasions in the Lower House have queried the reason we have not implemented the Act. We seek to amend it to allow human rights promotion as a charitable ground, but perhaps that is an issue for another day. The legislation needs to be implemented. I appreciate Senator Mary Ann O'Brien's argument that there are financial restrictions on what can be achieved, but this should not be used to delay or halt implementation of the Act. There is clear agreement in the House across the political divide among all parties and none that this should happen.

Senator Mary Ann O'Brien's report also notes that those Irish charities regulated by the Companies Act and limited by guarantee are obliged to publish their financial statements and that in so doing the application of the statement of recommended practice, SORP, is entirely voluntary and adopted by some charities as best practice. According to a recent survey, 20% have adopted the SORP, while 20% are in the process of adopting it or plan to adopt it soon. However, 60% have no plans to adopt it. That underpins the importance of the motion.

I commend the Minister for making a very good contribution and the fact that the Government has not tabled an amendment which, unfortunately, is the practice, even when well intended, constructive and good motions are tabled by the Opposition or Independent Senators. We must welcome the approach taken and I hope it can be seen as a statement of intent on the Minister's part that he will follow through on the logic of the motion.

As I assume I am close to the end of my contribution, I want to-----

**Acting Chairman (Senator Terry Leyden):** The Senator is very wise. He is close to the end of the time allotted.

**Senator David Cullinane:** I commend the Independent Senators for tabling this important motion and welcome the representatives of all of the charities present. I am a realist and a pragmatist. I do not believe we will ever reach Utopia, but I do believe the State has abdicated its responsibilities in recent times in ensuring people have the required levels of protection and that some of the responsibility for the provision of services has landed on the shoulders of many charities which are under pressure. I would not have a difficulty with paying more tax if it was used to provide services for people who need them. I certainly believe many higher earners would not have such a difficulty either. I commend the Independent Senators for tabling the motion and hope we will not have a similar motion before us in a number of months time. I hope the Government will give a commitment to act and deliver on it.

**Senator David Norris:** I compliment my colleagues on tabling this very important motion. I have just come from a meeting of the Oireachtas Joint Committee on Foreign Affairs and Trade and a series of other briefings. We are very busy in the Seanad today, but there are a number of issues I wish to raise. I am very glad that the motion has not been amended, that it has been accepted and that there will not be a vote on it. It appears to be going through unanimously, which is very important. In these extraordinarily difficult financial times we need to support genuine charitable efforts. There are some remarkable individuals and organisations such as the Society of St. Vincent de Paul, which is splendid. I want to come back to it because it is very vulnerable. People like Alice Leahy in Trust which looks after the homeless need and deserve our support.

This is an unregulated area, particularly with reference to charity mugging or "chugging", as I think it is called. I live on North Great Georges Street and come here via O'Connell Street and

Grafton Street. I sometimes see up to eight charities with 20 young people collecting. Sometimes it is an exercise to be undertaken in transition year, but I do not think this is appropriate. The sector should be regulated properly, although I do not begrudge charities the money. There are other people who pay young people, very often foreign students, to collect money for them. I wonder how this activity should be regulated, but it should be regulated.

I particularly commend the work of Senator Mary Ann O'Brien and her husband who is in the Visitors Gallery who are the co-founders of the Jack and Jill Children's Foundation. Based on their tragic personal experience, they have built something that is extraordinarily important for parents placed in this difficult situation where they did not receive any State assistance. It is a reproach to what is supposed to be the caring element of our society that this very vulnerable group with damaged children - I hope it is not inappropriate to say this - did not receive support. The State stands reproached in that regard.

I mentioned the Society of St. Vincent de Paul. I am not a Roman Catholic, but it is not a sectarian group. It provides wonderful briefings. For example, some years ago it spoke about trying to front-load grants for fuel. Paying them on a staged basis was absolutely useless because one could not buy 16s.4½d. worth of fuel. One needs the entire lump sum to provide for oneself for the winter. It costs the Exchequer no more money, but it allows people to access fuel. That is the kind of practical measure the Society of St. Vincent de Paul takes. It provides clothing for people.

I am homing in on my last point, the main one I wish to make. I reported to the Garda some time ago on people who consistently dropped in little notices in my area asking for old clothes for a charity and giving a telephone number one could ring. I rang the number repeatedly, but nobody replied. It was a scam. The people concerned were taking clothes, while pretending to be charities and depriving those who might have benefited from them if they had been given to real charities. That is only the thin end of the wedge. The real situation was exposed recently in an excellent programme on RTE. It was one I had been aware of for some time. The makers of the programme traced people who were violently breaking into the collection bins for the St. Vincent de Paul and so on and stealing the clothes. This is a multi-million euro industry. There was a St. Vincent de Paul warehouse in Cork with racks and racks of hangers, all empty. We saw video footage of these people forcibly bursting the doors open and piling the clothes into vans. That is the situation. There is no law in this country under which these people can be prosecuted. One question I would like the Minister of State to bring back to the Government is this: Can we please have some law? These are violent criminal gangs, many of them eastern European. I am not racist about this. Eastern Europe is a very large place but it produces some of these crooks. It is appalling that people in this day and age, who are really on the edge, should be deprived of clothing, of monetary assistance and so on because criminal gangs are making millions. Enormous trailers are being loaded up and exiting through Dublin Port bound for central Europe. That is wrong. Will the Minister of State please bring this issue back to the Government and ask for some legislation? We need to consult with the St. Vincent de Paul and the other charities to find out what legislation is needed and put it in place. Just this morning I heard in the news on the wireless that there was a battle between some of these groups and I am not sure that a man was not killed. In fact, he was killed. This is shocking. These criminals are leeching like vampires off the goodwill and good intentions of Irish people and infesting them with their evil. Now there are criminal gangs and deaths are resulting. That is not the purpose of charity.

I commend my colleagues on their raising of this issue. I am delighted it is not being op-

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posed and I hope the Minister of State will take back to her colleagues the sentiments that have been expressed here this evening.

**Senator Mary Ann O'Brien:** I welcome the Minister of State to the House. Will she pass on my thanks to the Minister for Justice and Equality, Deputy Alan Shatter, for his extremely positive speech, his comments and his intention to move along speedily? As some of my fellow Senators referred to me as a slightly crazed entrepreneur, I have done my best to behave and be realistic.

**Senator Fiach Mac Conghail:** Hear, hear.

**Senator Martin Conway:** The Senator has always behaved.

**Senator Mary Ann O'Brien:** We will soon welcome news from the Minister about his plans, his critical path and his timeline to roll this out in stages. Nirvana cannot be achieved in one month. So many Senators made good contributions that I will take a few points from them. Senator Zappone has had to go to another meeting. If I may be excused for my appalling manners, I never welcomed those in the Visitors' Gallery, who are from different parts of the charity sector. I thank them for coming.

There are Senators here who represent different sectors, including Senator Crown, who is a specialist in cancer treatment, Senators Ó Murchú and Mac Conghail, who represent culture, Senator van Turnhout, who has worked with children, Senators Conway and Eamonn Coghlan, and others representing the interests of children, of Guides, of those with disabilities, of Crumlin Children's Hospital, of sport, and of Úna Ní Dhubhghaill in the back who does all the work. We all need this. Our beneficiaries and donors need it. We need this regulation now. Senator Eamonn Coghlan spoke about brand Crumlin. We are saying that at the top of that umbrella is the brand Ireland charity.

We heard impassioned speeches this evening about the "Prime Time" programme two weeks ago. That is one of the many stories to emerge in recent years of little bites and chews at brand Ireland. We cannot afford for this brand to be damaged and it is only a matter of time before a big story comes and damages our beautiful brand Ireland. We need this regulation to be put in place. We know we have no money. We know we are broke, but there are ways. Of the Government's donation to charity, which is €4 billion, 0.1% would give us €4 million, which could comprise €3 million to run the regulator and €1 million for a beneficiary fund, maybe for a charity that had got into trouble. It is possible.

Senator Quinn spoke about crowd funding. It is the way we have to go in the future. Bill Clinton spoke about this at the Global Irish Economic Forum last year. We cannot even begin to think about crowd funding unless we have our systems and our accountancy and reporting practices in order. I meet people all the time through my relationship with the Jack & Jill Foundation who ask me how to start or close a charity or merge it with another charity, or whether I know of any other suicide charities in Munster or Leinster. I have to say I do not have a clue. These are all simple questions. How can I view the accounts of a charity? The Minister said one can go to the Companies Registration Office. I need my accountant to look into the companies' accounts, because a normal person cannot read the accountancy reports. We need simple information. We need a lovely website that will almost advertise brand Ireland so that we can see clearly what our charities are doing.

In summing up, I thank everybody, because this was a good, robust, cross-party discussion.

We need to keep this high on the Minister's to-do list. It is a big undertaking, but Úna and the Minister have received some very good public consultation documents among the 160 submitted. We look forward to hearing from the Minister about his critical path. I thank everyone who contributed.

Question put and agreed to.

**Acting Chairman (Senator Terry Leyden):** When is it proposed to sit again?

**Senator Martin Conway:** Tomorrow morning at 10.30.

## **Adjournment Matters**

### **Redundancy Payments**

**An Leas-Chathaoirleach:** I welcome the Minister of State at the Department of Enterprise, Jobs and Innovation, Deputy Perry, to the House.

I have been asked to read a cautionary note to Senator Cullinane. As the Senator is aware, I had to rule out of order certain aspects of the Senator's Adjournment matter as they appeared to me to encroach on the functions of the High Court, which is not permissible under Standing Order 47 relating to matters that are *sub judice*. I ask Senator Cullinane to respect my ruling when discussing this issue. The Seanad Office has provided him with a text that is admissible. For his information, he cannot raise the matter of compensation for workers and the protection of the workers' pension scheme. These matters go to the heart of the deliberations of the High Court case and may damage the proceedings. Senator Cullinane has four minutes to put his case to the Minister of State, being mindful of the admonition that I have to read to him. It is a guideline.

**Senator David Cullinane:** The Minister of State is aware that the former Waterford Crystal workers brought a case to the Commercial Court.

*6 o'clock*

The Commercial Court sought advice from the European Court of Justice on a number of aspects of the State's obligations under the European Union 2008 insolvency directive. The European Court of Justice ruled last week and found that the State had failed in its obligations to implement measures which safeguard workers' pensions in respect of a double insolvency and that the State had not implemented Article 8 of the EU insolvency directive.

I hosted a briefing in the audio-visual room today which was attended by Members from all parties and none. The briefing was given by Mr. Jimmy Kelly and Mr. Walter Cullen, officials from Unite, Mr. Tom Hogan and Mr. Michael Dooley, former Waterford Crystal workers and plaintiffs in the court case to which I referred, Ms Mona Costello, the lawyer for the workers, and Mr. John O'Connell, a pensions expert. The two former workers spoke about their experience of working for 30 years and 40 years in Waterford Crystal. They found out at very short notice that their jobs were gone, that they were essentially being locked out of their jobs and

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that they were being left without proper redundancy payments and without proper terms and conditions being implemented. They were treated very badly by the company. The workers then found out that not only was the company insolvent but that their pension fund was insolvent and that after long service to a company, they would not get their proper entitlements in terms of redundancy nor would they get the vast bulk of their pension into which they had paid. To add insult to injury, they then found out to their cost that the State had failed in its obligation. If the State had implemented the 2008 European Union insolvency directive, those workers' pensions would have been protected.

I commend those workers for taking the court case and congratulate them on their victory. However, I appeal to the Government to act. I understand this must go back to the Commercial Court but the strong message from all the people who made the presentation in the audio-visual room today - from the legal people to the pensions expert to the workers themselves to the union - was that the Government should not drag its heels. While the Leas-Chathaoirleach can argue it is *sub judice*, that does not stop the Government from acting. The Government has it within its power to enter into immediate negotiations with the trade union to properly compensate the former Waterford Crystal workers.

I will leave it to the Commercial Court to make its decision but I am asking the Government to start negotiations with the former workers. The delegation was very clear that if the Government does that, then agreement can be reached to everybody's satisfaction. However, there must be justice for former Waterford Crystal workers who must get their pensions. What steps will the Government take following this judgment? Will it drag its heels, drag this out further and add insult to injury or will it accept the court's ruling and allow the Commercial Court to run its course but enter into negotiations with the trade union, properly compensate the workers and seek to put in place legislation, which it ultimately will be compelled to do, to ensure all workers and their pensions are protected?

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry):** I am taking this matter on behalf of the Minister for Social Protection. On 25 April last, the European Court of Justice issued a ruling which contained a number of clarifications regarding transposition EU Directive 2008/94EC which concerns the protection of employees in the event of the insolvency of their employer. This ruling was in response to a July 2011 referral from the High Court regarding proceedings brought by former workers at Waterford Crystal. The High Court had, in taking the view that interpretation of the provisions of directive 2008/94 was necessary in order for it to give its decision in this case, decided to stay the proceedings and to refer a number of questions to the European Court of Justice for a preliminary ruling.

Following the European Court of Justice ruling, the matter will now revert to the High Court for consideration. Given this matter remains before the courts, it would not be appropriate for me to comment further on any specific aspects of the case at this time.

**Senator David Cullinane:** While I understand the brevity of the response and the fact the Minister of State may be reluctant to discuss this further, I must stress that there is nothing stopping the State from doing something of its own volition. There is nothing stopping the Minister for Finance starting discussions with Unite and the former workers. I appeal to the Minister of State to use his good office to appeal to him to start those discussions and negotiations. There was cross-party support at today's briefing for that to happen. It should happen because those workers deserve justice.

If it is seen by people in Waterford and those workers that the Government is continuing to hide behind the court and legal issues and dragging its feet on this issue, it will be fiercely resisted. The vast majority of people in Waterford feel very deeply for those former Waterford Crystal workers. For anybody who believes in justice, the Government must do the right thing by those workers. I appeal to the Minister of State to ask the Minister for Finance to arrange a meeting with the delegation and start those discussions, which will happen anyway.

**An Leas-Chathaoirleach:** I am sure the Minister of State will convey the Senator's remarks.

**Deputy John Perry:** I would like to emphasise what I said in my response. I stated that following the European Court of Justice ruling, the matter will now revert to the High Court for consideration, which is very important, and that given that this matter remains before the courts, it would not be appropriate for me to comment further on any specific aspects of the case at this time.

### **Marine Development**

**Senator Trevor Ó Clochartaigh:** Cuirim fáilte roimh an Aire Stáit. Tá mé thar a bheith buíoch dó as teacht isteach leis an cheist seo a phlé liom. I raise the issue of oysters in Ballinakill Bay in north Connemara. We in Ireland pride ourselves on being able to sell the country as a place which is green, which has organic foods, etc., as does the Minister. However, there is an anomaly in Ballinakill Bay, on which I have been working for quite a while. I refer to a certain strain of a virus called ostreid herpes virus which has been the subject of a surveillance programme funded by the EU and administered by the Marine Institute over the past number of years. The idea is to try to keep the strain of the virus out of bays, if possible.

Ballinakill Bay was clear of the virus but during the surveillance programme, one oyster out of 900 tested was found to have the virus. It was found at the beginning of the programme approximately three years ago. As one oyster was found, the whole bay was taken out of the surveillance programme which basically opened up the bay for other oyster farmers to bring in other strains of oysters, which can be infected with other types of virus, although they are saleable on the market because they do not harm people. However, they reduce the quality of the bay and affect the designation it would have as an organic one in which we can farm these oysters. It is having a serious impact on the business which has been selling these organic oyster throughout Europe for the past number of years.

I have raised this issue with the Marine Institute which indicated that it was following directives from the EU and that this was an EU programme. I also followed it up through the offices of Ms Martina Anderson, MEP, in conjunction with Mr. Pat The Cope Gallagher, MEP, who raised it with the Commission. There is a question mark over how one infected oyster got into the sample. It seems very strange. Does that mean the whole bay had the ostreid herpes virus? If no other oyster is found over a two-year period can we declare the bay to be free of the virus? I shall also raise these questions with the Commission.

I understand from the replies that we received from the Commission that the surveillance programme will continue until 2014. If one follows the letter of the law regarding the discovery of one infected oyster, one could argue that the bay should have been removed from the surveillance programme. I call on the Minister to have the bay reinstated until the end of the

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surveillance programme and for the Marine Institute to continue its testing in order to keep infected oysters out of the bay for at least another year. There is a chance that the bay is free of disease and, if so, then we should maintain that status. If we allow oysters carrying the virus into the bay then the virus will spread and we will have no chance to restore the organic status of the bay.

I appreciate that the matter is covered by EU legislation. The only course of action open to us is for the Minister to intervene and request that the Marine Institute and his colleagues in the Commission restore surveillance for another year and until the end of 2014. Such a provision would mean that we could engage at the end of year and check if there are more infected oysters. If they exist, then one could argue that the bay is no longer disease free. If no more diseased oysters are found then surely we can reinstate the disease-free status of the bay on a full-time basis. Such status would do us a lot of good at European and national levels and would support the farmers involved. I look forward to the Minister of State's reply.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** I thank the Senator. I apologise for Minister Coveney's absence but he was unable to attend this important and complex debate.

As the Senator said, the competent authority for dealing with the issue is the Marine Institute. The core issue is that in areas deemed free of the disease there should be no importation of stock from infected areas. The areas were known as surveillance areas and included Ballinakill. In 2011 a positive test result necessitated the removal of the bay from the surveillance programme.

Losses related to the virus in oysters were first observed in Ireland in 2008. The disease spread over the next couple of years and was strongly associated with imports of seed from France. Following representations made to the EU Commission by the Marine Institute, it was agreed by the Commission that this was a serious emerging disease and that trade restrictions should be put in place to protect the areas that were still free of the virus while allowing trade to continue between infected areas.

EU legislation was brought forward to that effect in 2010. As a result, a surveillance programme was established in certain parts of Ireland, the UK and the Netherlands. The kernel of the surveillance programme was that each competent authority identified epidemiological units, or bays in the case of Ireland, where virus-related mortality had not been observed to date, and which the member state wished to protect from trade with other infected areas either within their own member state or further afield, most particularly France. Once these areas were identified as part of the surveillance programme, they could only trade with areas that were also in a surveillance programme, either here or abroad, and were thereby afforded a level of legal protection against the virus.

One of the requirements of being in the surveillance programme was that a testing regime would be put in place to ensure that these bays were free of the virus. A significant amount of State resources have been put into the operation of the Irish surveillance programme since it started in 2010. Since the basis of the surveillance programme was to underpin safe trade, an obvious prerequisite was that an epidemiological unit must be removed from the programme should a positive result be detected in that unit following laboratory testing. Such a result was obtained in respect of Ballinakill Bay in 2011.

The Irish surveillance programme started with 19 surveillance areas. Since 2010 testing has revealed that five of them were infected and must be removed from the programme. The bays are Gweedore, Drumcliffe, Ballinakill, Oysterhaven and the Shannon Estuary. As new positive findings arose, new decisions were issued by the EU Commission. As newly-infected areas were removed from the national programme, the legislation was modified to reflect these findings. Newly-infected areas were also detected in Northern Ireland and Great Britain since the programme began in 2010.

Clinical disease is not required for an epidemiological unit to be removed from the programme. In other words, a single molecular result constitutes a positive finding which requires removal from the scheme. If it were not the case, then any trade out of the area in which the positive test was confirmed could potentially be responsible for disease spread either within Ireland or further afield.

As indicated, five bays have been removed from the Irish surveillance programme since it began in 2010. A positive finding at Ballinakill Bay necessitated its removal from the surveillance programme in 2011. It is important to note that the current legislation provides for no option other than to remove the bay from the surveillance programme following the detection of one positive oyster in the bay.

Once a bay is removed from the surveillance programme, the relevant competent authority no longer has any legal basis for restricting trade into the bay. This is the basis of the agreed EU programme and applies equally in all member states who participate in the programme. In the case of Ballinakill Bay, if the Marine Institute had continued to restrict trade following its removal from the programme, a legitimate challenge could have been taken by other operators in the bay who wish to import stock from France. Such imports were not allowed while the bay was in the surveillance programme.

The very complex situation in Ballinakill was fully recognised by the institute. Instead of simply removing the bay from the surveillance programme and immediately allowing importation of stocks from France, the institute invested significant efforts into encouraging growers to voluntarily restrict trade with France for that season while testing continued. The objective was for the institute to gather more scientific data that would be used to inform a voluntary path forward for all stakeholders.

Specifically, the institute was faced with a situation where certain growers wanted to bring in stock from France, which could not be legally prevented, and others wanted to go back into a surveillance programme that was not legally permissible. Instead, the institute tried to encourage stakeholders to consider the results obtained which was only one positive out of almost 900 animals tested using very sensitive methods. It encouraged stakeholders to consider the findings and to reach an agreement on a code of practice for the bay that the institute would support with testing and advice. It is understood that while this has not been actioned by the stakeholders to date, an initial meeting may be scheduled for the coming weeks.

The action taken by the institute in Ballinakill had been agreed by the EU Commission. The institute has made considerable efforts to encourage the stakeholders to agree a code of practice. An agreement to a code of practice could potentially, after a number of years, provide data upon which the virus free status at Ballinakill could be reinstated. The institute has offered scientific advice and laboratory testing to support the approach.

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Ireland's reputation as a producer of top quality seafood is predicated on the implementation of a sound regulatory system that has the confidence of the public in general and the EU Commission. The Minister has indicated that he is satisfied, in the circumstances, that the correct approach is being adopted for the benefit of the entire industry. The reply was appropriately long for such a detailed and complex issue.

**An Leas-Chathaoirleach:** An bhfuil tú sásta, Senator Ó Clochartaigh?

**Senator Trevor Ó Clochartaigh:** I appreciate the answer. I have received a lot of the information from the Marine Institute. I agree that the matter is complex. The bottom line is that there was only one positive out of 900 animals tested which was discovered during the first year of testing. One could question how that could happen. It seems to be an aberration rather than the rule. I know that in the case of some of the other bays that were removed from the programme the situation was much more severe.

I welcome the fact that the Minister and the institute are trying to establish a code of practice for the bay. I ask that he applies a little more pressure to ensure that it is established, particularly if there is a chance that the bay could be kept disease free. That is a possibility. If the data collection is continued the bay could be reinstated. I understand that there is not a huge amount of testing being done at present because the bay has been removed from the programme. Perhaps he could urge that Marine Institute continues its testing and monitors whether the bay is disease free. I thank him for his answer again.

**Deputy Jan O'Sullivan:** I will convey the Senator's comments to the Minister.

### Planning Issues

**Senator Colm Burke:** I welcome the Minister of State. I wish to raise the issue of Part V compliance. I know of a number of projects that did not comply with Part V when a company went into liquidation. There is a difference between going into liquidation and entering NAMA. In this case Ulster Bank is involved but is not part of the NAMA process. I was concerned to find that the properties are fully occupied. I have sought clarification from the local authority on whether there was compliance with Part V and if the appropriate moneys were paid. Under Part V lands were to be made available to the local authority but they were mortgaged to another bank and, therefore, Part V could not have been complied with.

What action has the Department taken to ensure that liquidators in this situation comply with Part V, by way of a financial contribution, if a property is not going to be made available? It is one area on which we appear not to have got full clarification. Local authorities provided the necessary services not only for this development but a number of developments, without any compliance with Part V, yet these properties are now occupied and an attempt is being made to sell them. Will the local authorities get a contribution for providing the services in view of what has occurred?

**Deputy Jan O'Sullivan:** I thank Senator Burke again for raising this issue, which is complex.

Part V of the Planning and Development Act 2000 specifies that up to 20% of land zoned for residential use must be reserved for the provision of social and affordable housing in each

local authority area. This is transferred to local authorities at existing use value by way of land, units or serviced sites.

Following the amendment of the 2000 Act by the Planning and Development (Amendment) Acts of 2002 and 2010, and other guidance issued on implementation issues by my Department in July 2003 and November 2006, developers and house builders can offer a range of alternative ways to meet their Part V requirements. These alternatives include the provision of off-site serviced sites, the transfer of other lands to the planning authority within its administrative area, payment of a financial contribution and entry into rental accommodation availability agreements.

Generally speaking, conditions attached to a planning permission requiring the payment of development contributions will require the developer to pay the specified amount, often in advance of development commencing. It is my understanding that, on appointment, a liquidator becomes responsible for discharging the liabilities of a developer, including the development contributions attached to a planning permission. Without so discharging, the development may be classified as unauthorised development. While I am aware generally of the difficult financial position of local authorities, and have brought forward important changes to the development contribution regime in that regard, I am not aware of specific difficulties in securing development contributions from liquidators.

In recognition of the challenges presented by the current economic environment, my Department issued updated guidance to local authorities early last year on options for ensuring compliance with Part V requirements. In light of market conditions, the financial position of local authorities and the Exchequer, and the difficulties associated with the over-supply of affordable housing, my Department advised local authorities that mechanisms for discharging Part V obligations, which would not place additional funding pressures on local authorities, were to be used. Such options include financial contributions, reduced numbers of units, or lands in lieu.

The Government's housing policy statement, published in June 2011, announced the standing down of all affordable housing schemes, including the shared ownership scheme, in the context of a full review of Part V of the Planning and Development Act 2000. These schemes were introduced to bridge the affordability gap that emerged during the boom years, preventing middle-income households from realising their ownership aspirations. However, affordable housing did nothing to address the underlying problem - market overheating - with an unsustainable gap between prices and incomes. In addition, affordability has eased to such an extent that there is little or no demand for affordable housing. Indeed, in recent years the challenge has been to deploy existing affordable stock productively rather than deliver new affordable housing.

The review of Part V is now almost concluded and I have also asked the Housing and Sustainable Communities Agency to provide me with a stand-alone analysis of the shared ownership scheme, including identification of the main difficulties and recommendations for mitigating measures.

Any future changes to legislation governing affordable housing schemes, including the shared ownership scheme, will be made in the context of both pieces of work and I expect to make announcements in this regard in the near future. As the next step in this process, I intend to publish public consultation documents on both topics in the coming weeks.

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**Senator Colm Burke:** I thank the Minister of State. If I give her details of the project I am concerned about it could be followed up because I am not satisfied that the local authority has not responded to my query. This is a major development of over 160 units and I am not satisfied that Part V has been complied with. When I see it being offered for sale to outside investors I want to make sure that the liquidator is making a contribution to the local authority in view of the fact that the local authority provided the services, the roads, the sewerage and the water supply. I am very concerned that would happen. If I give the Minister the details on it the Department might come back to me on it.

**Deputy Jan O'Sullivan:** If there are developers who are trying to avoid their responsibilities, I would be delighted to get the information and come back to the Deputy on the matter.

### **School Accommodation**

**Senator Lorraine Higgins:** I welcome the Minister of State to the House and thank her for taking this matter on the Adjournment. My home town of Athenry is a growing urban area the population of which has increased from 1,000 during pre-boom times to 5,000 currently and, as a consequence, the local schools, and in particular the Presentation College in Athenry, is experiencing over-capacity and ongoing demand for school places. This school was built to accommodate considerably fewer students than the approximately 1,000 students currently attending the school. More troubling is that of the student population, at least half of the students are housed in prefabs. Furthermore, other difficulties are being presented, particularly to parents in the town and those from surrounding parishes such as Monivea, Clarinbridge, Craughwell and Kilcolgan who are trying to get their children educated at this school, which has a wonderful academic record, but to no avail as a result of the demands that are placed on it.

The school would like to be able to accommodate all these children, and there is a significant over-capacity issue, but because of the serious over-utilisation of general space in the school and that half the school population study in prefabs, health and safety risks may well be presented to all and sundry.

Adequately spaced classrooms are in short supply, as is specialist accommodation for the school. While the school has received funding in the past for upgrading the facilities and the addition of temporary classroom facilities, for which the principal of the school and the board of the management are extremely grateful to the Department, it is telling that the Department has acknowledged the unsuitability of the facility when it placed the school on a five-year list for capital building works and earmarked a 20-acre site for development on the outskirts of Athenry.

I understand that in December 2011 the project has entered into a design process whereby a team of architects and engineers planned the form and structure of this new school but despite promises at that time that the school would be up and running by 2014, it is clear now that this will not be possible. The board of management has been very proactive in proceeding through the various processes and it has, as such, completed its part of the deal. However, information to which I have become privy and that has been circulating locally suggests that other business organisations involved in significant infrastructure projects within Athenry, which are to be earmarked for development locally, have grave reservations about the viability of this site from a planning perspective. I am afraid that may stymie any plans to have a school built on this site that is earmarked for development. It calls into question the suitability of the site in its totality

and if that is the case, I suggest to the Minister that we should not delay and should seek alternative sites to ensure that the progress of this school continues without any undue delay.

In light of what I have stated, I request that the Minister outline the current status of the application for new accommodation, including an indication of the timeframe within which this school project will be delivered. If the details I have referred to in my contribution are accurate, the Minister of State or the Minister, Deputy Quinn, might be so good as to inform me.

**Deputy Jan O'Sullivan:** I am responding on behalf of the Minister for Education and Skills, Deputy Ruairí Quinn. I am pleased to be given this opportunity to inform the House of the position regarding the provision of new accommodation for Presentation College, Athenry.

As the Senator will be aware, meeting the current emerging demographic challenges for the school sector is one of the highest priorities of the Minister and his officials. The provision of school accommodation in areas of greatest need is the key to achieving our objectives in this respect. The Senator will recall that the Minister announced a five-year plan for school building projects in March 2012. More particularly, he also recently announced the 50 school projects scheduled for construction in the current year as part of a €2 billion capital investment programme. Through these announcements the Minister has identified the major school projects that will be undertaken to meet these challenges. These projects will commence construction over the duration of the five-year plan.

As Senator Higgins said, Presentation College, Athenry, is a co-educational voluntary secondary school in a town which has seen significant population growth in the past number of years. That growth precipitated the identification of Athenry as one of the areas in need of additional school provision at both primary and post-primary levels. The Minister is also conscious that a significant proportion of the students in Presentation College, Athenry, are currently being accommodated in temporary buildings and facilities. The need for new school places in the school is critical in that context.

Consequently, it is planned to deliver a new post-primary school with provision for 1,000 pupil places on a greenfield site in Athenry. This school building will replace the existing Presentation College premises. A site for the new school was acquired from Teagasc by the school trustees in late 2012. I was not aware there was an issue with the site, but I will return to that matter. The site is currently the subject of pre-planning preparations for the project. The preparations are being undertaken by the National Development Finance Agency to which the project has been devolved for delivery under the new devolved model which is in use by the Department. Pre-planning discussions are taking place with all relevant stakeholders, including the board of management, nearby residents and enterprises and the local community in general. The discussions are ongoing and progressing. The target date to complete the project at Presentation College, Athenry, is 2014-15. It is hoped that by then students and staff will be able to occupy the fully equipped science laboratories, multi-media and technology rooms, music, art and home economics facilities and the special needs unit. I assure Senator Higgins that in the interim the Department is maintaining contact with the school to ensure there is sufficient accommodation for September 2013.

I thank the Senator for the opportunity to set out this information. I note the specific issues she raised, which I will bring to the attention of the Minister for Education and Skills, Deputy Ruairí Quinn.

1 May 2013

**Senator Lorraine Higgins:** I thank the Minister of State for her response. I am glad some clarity has been provided. I am aware that the Department is in contact with the school, on behalf of which I have raised the issue this evening. The school was seeking clarity as to a definite timeline and a date by which students and staff could occupy the accommodation in the new building. As I said, there was concern locally about the suitability of the site in the context of an outside body or agency looking at developing significant infrastructure in the town. It was of concern to me as it is in the interests of parents, the board of management and the general population of the town that the project goes ahead as quickly as possible and that nothing stands in the way of it being expedited.

The Seanad adjourned at 6.30 p.m. until 10.30 a.m. on Thursday, 2 May 2013.